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# Secretary's Semiannual Management Report U.S. Department of Labor



October 1, 1990 - March 31, 1991



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# **Secretary's Semiannual Management Report U.S. Department of Labor**

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U.S. Department of Labor  
Lynn Martin, Secretary

October 1, 1990 - March 31, 1991

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I am pleased to provide the Department's third Management Report prescribed under the Inspector General Act Amendments of 1988 (Public Law 100-504). Cooperative efforts continue between Departmental management, all agencies of the Department, and the Office of the Inspector General to meet both the spirit and letter of the Act. As a result, Departmental management continues to give a high priority to the status of audit follow up.

Section IV of this report provides the audit resolution detail prescribed by the amendments to the Act. I continue to believe that limiting the Department's Semiannual Management Report to this level of detail provides a narrow focus and gives the impression that management efforts are limited to reacting to problems identified in audit reports. Reporting on management accomplishments and initiatives, together with the record of accountability for audit resolution, provides a more balanced picture of the Department's stewardship over its programs.

Section I of the report highlights management's involvement in the successful production of the Fiscal Year 1990 Consolidated Financial Statements. Cooperation between the OIG and management was begun for work on the FY 1989 statements, and accelerated for the FY 1990 statements. This year for the first time the Department's financial statements were reconciled with the annual reports to Treasury. The Department's new accounting system, DOLAR\$, was instrumental in the reconciliation of the financial statements with the Treasury reports.

During the past six months the Department has continued to strengthen its enforcement programs, including efforts following the report of the DOL Enforcement Task Force. This report identifies progress made since the November report to the Secretary, which highlighted the Task Force's efforts.

The Department has worked effectively with the Office of the Inspector General (OIG) to resolve audits within the required six month time frame. However, the OIG Semiannual Report notes a few exceptions in which resolution has not been reached. These exceptions involve audits subject to litigation in the Federal courts or under administrative law review; audits in some programs which are subject by statute to formal resolution procedures which could take a year or more; and other audits addressing complex management issues that simply require a longer period of time to correct the problems identified.

Sincerely,

  
LYNN MARTIN



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## FOREWORD

The Department of Labor faces many new challenges and opportunities in the 1990's. The Department is playing a pivotal, dynamic role on behalf of American workers. In a very broad sense, the overall Department's mission has encompassed six major objectives.

**First, to improve the quality of the work force by ensuring that American workers are the world's best trained and most highly skilled -- placing special emphasis on the disadvantaged among us to ensure their full participation in the opportunity that lies ahead.**

**Second, to ensure that the American work place is as safe, as healthy, and as secure as we can make it.**

**Third, to develop a sound and comprehensive pension policy that brings a measure of rationality to the demographic and social changes now upon us.**

**Fourth, to ensure fair and vigorous enforcement of labor laws.**

**Fifth, to empower the individual employee by encouraging employers to enhance flexibility in their work place leading toward increased productivity and efficiency.**

**And last, to ensure that relationships between management and labor continue to move beyond the tradition of confrontation toward productive and affirmative cooperation on behalf of interests held in common.**

In the first section of this Semiannual Management Report, we highlight the Department's initial responses to the financial disclosure requirements of the Chief Financial Officers Act of 1990. This section also highlights progress to strengthen the Department's enforcement programs following the report of the DOL Enforcement Task Force. Significant progress also continues to be made in addressing the remainder of the Department's missions which have been included in Section II., Accomplishments of Department of Labor Agencies.

# **I. Major Department of Labor Initiatives**

## **Fiscal Year 1990 Consolidated Financial Statements**

As required by the Chief Financial Officers Act of 1990, the Department prepared and submitted to the Office of Management and Budget FY 1990 consolidated financial statements for its constituent offices, administrations and bureaus. The Department was named one of five pilot agencies required to prepare consolidated financial statements. The statements reflect the combined efforts of departmental management and the Office of Inspector General.

Financial statements generally provide a comprehensive financial report on an organization that depicts management stewardship and accountability, facilitate the management and control of resources, and provide a focus for audit. These statements, prepared in accordance with generally accepted accounting principles for the Federal government, present the Department's consolidated financial position as of September 30, 1990, and 1989, and its results of operations, changes in financial position, and reconciliation to the President's Budget for the fiscal years ended September 30, 1990, and 1989. The statements include footnote disclosures which are considered an integral part of the statements proper, and supplemental schedules which display disaggregated financial information. The supplemental schedules are not required by either the CFO Act or generally accepted accounting principles for the Federal government, but are informative for readers interested in agency-level activity.

As of September 30, 1990, the Department reported total assets of \$73.7 billion, liabilities of \$33.4 billion, and equity of \$40.3 billion. Comparable information for 1989 was \$68.6 billion, \$26.0 billion, and \$42.6 billion, respectively. Financing sources totaled \$33.8 billion and \$32.1 billion, for the fiscal years ended September 30, 1990, and 1989, respectively; expenses totaled \$35.0 billion and \$26.1 billion, respectively. The FY 1989 information has been audited; the FY 1990 information will be audited and reported as required by the CFO Act.

For the past five years, the Department's Office of Inspector General has played a leading role in the compilation and audit of financial statements for DOL. The Department was the first Cabinet agency to publish audited financial statements, and has done so since 1986. Largely as a result of the OIG's developmental work, the Department was named a pilot agency in the CFO Act, with the requirement that the FY 1990 statements be prepared by March 31, 1991, and that an audit report on those statements be completed by June 30, 1991.

The statements for 1986-88 were done entirely with OIG resources. Recognizing that management should have a major role in their compilation, a cooperative effort was initiated with the FY 1989 statements and accelerated, especially at the agency level, for the FY 1990 statements. Work done for FY 1990 was highly innovative in two other respects, namely:

- the annual reports to Treasury were reconciled with the financial statements. Heretofore, incompatibility plagued the Treasury reports prepared by management and the financial statements produced by the OIG. The management/OIG cooperative effort resulted in agreement on substantially all the data and the data displays in these reports.

- the Department's new central accounting system (DOLAR\$) played a significant role in generating basic data presented in the two main Treasury reports and recompiling the information in the financial statements. Some transitional problems affected the new system, but it supported the compilation effort and has been improved as a result of the effort needed to resolve those problems.

Following completion of the audit, the Department will publish the FY 1990 statements, together with the auditor's report and an overview of the Department's accomplishments to meet the annual reporting requirements of the Chief Financial Officers Act of 1990.

### **Department of Labor Accounting and Related Systems (DOLAR\$)**

The Comptroller continued to emphasize financial management and service by improving the quality, timeliness and integrity of its accounting data and reports. Implementation of the core of the new central automated accounting system (DOLAR\$) was almost completed, with emphasis shifting now to core enhancements and the associated sub-systems.

The core of DOLAR\$:

- is a centralized financial management system for the Department, Agencies, and Regions, accurately capturing either detailed or summary data for all S&E and grant financial activity in the Department.
- provides a modern financial system whose ledgers, sub-ledgers, and transaction definitions, have the potential of complying with all Federal (GAO, Treasury, OMB, JFMIP and the Congressional) requirements.



- produces a comprehensive set of internal management reports that timely and accurately portray fund status by funding source, organization, object class and other categorizations, supplemented by an interactive query capability.
- generates monthly external reports for Treasury (SF 224), in accordance with prescribed accounting and budgetary requirements.

During the past six months, the Department closed FY 1990 successfully utilizing the new system. It also worked closely with the Office of the Inspector General to assure that year-end reports met standards and requirements, and could be used as a basis for the pilot financial statements needed under the Chief Financial Officers Act of 1990. Additional functionality was brought on-line, specifically, a standing entry capability to ease entry of repetitive transactions, security features for allotments supportive of the fund control provisions of the Anti-Deficiency Act, electronic distribution of several of the major user reports, enhanced batch input methodology, and automatic redistributions of Working Capital Fund charges. A pilot is now underway in the Boston Region in which the on-line query capability is being made available to agency program managers.

Testing of other system functionality was also completed for a commitment accounting capability and for the accounts payable sub-system. Both are now being piloted. By May 17 the test of the automated linkage to HHS' Payment Management System (which controls and makes grant advances to States for DOL) should be completed, enabling the Department to eliminate manual data entry.

Work continued on the design of the integrated sub-systems for procurement, travel, imprest fund, accounts receivable, budget execution, and time distribution. Design efforts were also underway for the system interfaces between DOLAR\$ and other financial systems (e.g., the Integrated Payroll System, the Unemployment Insurance Trust Fund, the Black Lung Disability Trust Fund, the Longshore and Harborworkers Trust Fund, and the OSHA and MSHA assessment systems).

OASAM and OIG staff continued to work very cooperatively on several fronts to improve DOL's financial reporting and accountability. The 1989 audited financial statements have gone to press, and the third combined audit/management semi-annual report was completed. Probably the most extensive joint effort involved completion of the 1990 Treasury reports in a manner that greatly facilitated the compilation of the 1990 financial statements. OASAM and OIG teams worked expeditiously and in great depth to assure that the financial data displayed were accurate.

## Payment Management System

Five agencies of the Department of Labor administer grant programs: the Bureau of Labor Statistics (BLS), the Employment and Training Administration (ETA), the Mine Safety and Health Administration (MSHA), the Occupational Safety and Health Administration (OSHA) and the Veterans Employment and Training Service (VETS). For the past fifteen years these five agencies have utilized the Treasury Financial Communications System-Letter of Credit (TFCS-LOC) system for processing a large portion of their grant advances. During Fiscal Year 1990 the Treasury Department announced its plans to discontinue the use of the TFCS-LOC. In response to Treasury's decision, DOL turned to the Department of Health and Human Services (DHHS) for an alternative system for its grant payment process.

The DHHS Division of Federal Assistance Financing (DFAF) offered a full service grant and program payment capability that was available to the Department of Labor and other government agencies on a reimbursable basis. Their services included the processing of all financial transactions from award through closeout of the grant account. In accomplishing these tasks, DFAF uses its Payment Management System (PMS) that operates in an IBM environment at the National Institutes of Health, employs database management technology, and enhanced telecommunications. Of particular interest to DOL was the on-line capability that PMS provides for a grantee to request funds, and the subsequent electronic draw down and distribution of those funds through the Automated Clearing House (ACH) process. This feature was a significant improvement over the TFCS-LOC which required the grantee to submit a hard copy request to its financial institution for transmission to Treasury.

Each of the DOL grant agencies entered into interagency agreements with DHHS during the fiscal year. MSHA, with the smallest dollar volume of grants, began PMS operations in July 1990 and the other four agencies followed during the first quarter of Fiscal Year 1991. As of March 31, 1991, the five agencies had approximately \$3.8 billion in grant authorizations included on PMS, and almost \$1.4 billion has been drawn down by grantees through the ACH process.

At present, the Office of the Comptroller's Integrated Accounting System Task Force is developing an electronic interface between PMS and the DOL Accounting and Related Systems (DOLAR\$). This interface will provide for the electronic update of PMS with the grant authorizations recorded in DOLAR\$, and the electronic update of DOLAR\$ with the cash advances and expenditures recorded in PMS. The interface will be completed during the current fiscal year.



## **Strengthening the Department's Enforcement Programs**

In October 1990, the Department of Labor (DOL or the Department) completed a thorough evaluation of its enforcement programs. This process culminated in an in-depth document entitled "Report to the Secretary of the Task Force on Enforcement," which was summarized in the November 1990 Secretary's Semiannual Management Report. Secretary of Labor Lynn Martin has recently reviewed and accepted certain recommendations in that report. She has included those recommendations and certain other proposals of the enforcement agencies in her stated goals for the Department.

Since the completion of the report, the Department has taken several steps to enhance its enforcement activities by implementing many of the Task Force's recommendations. This process is exemplified by an increased emphasis on quality over quantity in enforcement actions, to allow concentration of efforts on serious or egregious violators rather than on targets selected as a result of preordained methods to meet arbitrary statistical goals. These efforts have required a change in how the Department evaluates the effectiveness of its enforcement programs. Whereas previously, objective criteria (e.g., the numbers of investigations completed or citations issued) were emphasized, current practice is evolving towards more subjective standards that measure quality (e.g., adherence to statutes, regulations, and policy and procedural guidelines; accuracy; timeliness; thoroughness; and overall enforcement impact).

### **Compliance Policy**

The Department of Labor is one of the largest law enforcement agencies in the United States government. It seeks appropriate penalties for those who disregard the law, while providing education and technical assistance to those who make good faith efforts to comply. In general, a comprehensive enforcement strategy is relied upon to achieve compliance with the statutes and regulations under the jurisdiction of the Department. This three-pronged strategy is based upon: (1) promoting voluntary compliance; (2) detecting, correcting, and deterring violations; and, (3) using third party conduct where appropriate to maximize the Department's overall enforcement impact.

### **Voluntary Compliance**

Voluntary compliance is encouraged through a variety of means, including consultation, technical assistance and dissemination of various written materials. In addition, DOL staff and managers frequently interact with the business and labor communities to promote an "open door" policy of providing consultation and information on compliance requirements.

In FY 1991, DOL staff began work on a brochure which describes the Department's enforcement programs. Each enforcement agency has submitted the following material:

1. Statutory Title, U.S. Code cite, CFR cite.
2. Who is Covered.
3. Basic provisions/requirements.
4. Assistance available including available publications and telephone contacts for additional assistance.
5. Penalties that could be imposed for failure to comply, including any gradations such as "willful" violations.
6. Relation to state, local and other Federal laws.

Staff of the Assistant Secretary for Policy are organizing this material and developing summaries easily understood by laymen. Comments and reactions will be sought when a draft of the brochure is completed.

#### **Detection, Correction and Deterrence**

In addition to encouraging of voluntary compliance, each enforcement agency uses some combination of audits, reviews, inspections, complaints, referrals, investigations and other activities to detect violations and to achieve compliance. If specific violations are detected, corrective action is ordered and, where permitted by statute, compensation is sought for those harmed. Deterrence is effected through the imposition of civil penalties, criminal sanctions, injunctive actions, and administrative sanctions. Generally, penalties are assessed on a progressive basis, depending upon the nature and severity of the violations.

1. **Detection** -- In FY 1991, several actions were taken to improve the detection of violations.
  - \* Several agencies (e.g., PWBA, OSHA and ESA) have worked on improving their targeting and enforcement tracking systems. OASP is heading a steering committee (which includes OSHA, ESA and OASAM personnel) to explore the feasibility of developing a DOL-wide integrated database.
  - \* All of the enforcement agencies have established the position of criminal enforcement coordinator to improve the identification of criminal violations and criminal/civil case documentation.

- \* Some agencies have increased the criminal investigation training of their enforcement personnel either by modifying existing courses or by sending personnel to the Federal Law Enforcement Training Center in Glynco, Georgia. The DOL Academy is developing a criminal investigator course for DOL personnel.
  - \* Some agency investigative personnel have been cross-trained to identify potential violations of regulations administered by other agencies within (e.g., OSHA and ESA) and outside of (e.g., OSHA and EPA) the Department.
2. Deterrence -- The deterrent value of the Department's enforcement programs has been improved in FY 1991 through the use of increased civil money penalties mandated by the 1990 Budget Reconciliation Act (i.e., the fines were raised progressively for many programs and some agencies have adopted a policy of citing each instance of a violation rather than grouping similar violations in egregious cases). There has been an increased emphasis on enhancing criminal enforcement in the Department. In addition to the detection actions discussed above, SOL is examining procedures to streamline the criminal referral process and to improve coordination with the U.S. Attorneys, and DOL personnel are working with the Congress to appropriately revise some criminal sanctions provisions in some statutes administered by the Department.

#### Departmental Oversight and Coordination

Although each DOL program agency is generally responsible for the overall management of its programs, the Department's Policy Review Board (PRB) performs very important oversight functions, including review and coordination of enforcement programs. Much of the PRB's activity in FY 1991 concerning enforcement addressed various revisions to agency civil penalty structures and legislative proposals.

In addition, as a part of DOL's internal budget review process, the Deputy Secretary and his designees meet with the agency heads to discuss each agency's enforcement programs and their progress in implementing the enforcement strategies. In preparation for these meetings, the FY 1991 agency enforcement plans and FY 1991 enforcement resource estimates have been collected and are being reviewed.

Finally, as part of its auditing role of the Department's activities, the OIG is conducting an evaluation of the agencies' progress in responding to the Task Force's recommendations and the actions set forth in the December 1990 Federal Managers' Financial Integrity report.

**Summary**

The Department is committed to balanced, fair enforcement based upon a policy of providing help to those who need assistance, deterring and correcting violations, and progressively penalizing those who disregard the law. The Department looks forward to a continuing dialogue with the regulated and protected communities, with a view towards increased compliance with the many and varied statutory and regulatory requirements enforced by DOL.



## **II. Accomplishments of Department of Labor Agencies**

### **EMPLOYMENT AND TRAINING ADMINISTRATION (ETA)**

#### **Upgrading the Quality of Our Workforce**

Upgrading the quality of our workforce--current and future--continues to be the focus of the Department of Labor's employment and training initiatives. As more jobs are created which place higher demands on the workforce, we are challenged to find ways to eliminate skill level and attitudinal barriers to employment. As technology and new work processes continually upgrade the workplace, we will also need to ensure that worker skill levels keep pace with changing job requirements. These challenges are being addressed by a multi-faceted Workforce Quality Agenda.

The Department of Labor continues work on a school-to-work initiative, which builds on existing research in the cognitive sciences to develop approaches for stronger school-to-work connections. In partnership with several large and small employers, State agencies, school systems and community-based organizations from across the Nation, the Department launched, in September 1990, a \$10.5 million program to make education more relevant to employment. Six 2-year grants were awarded to develop school-to-work transition models through which students will learn job-related subjects in a practical context, gain experience relevant to the workplace, and be better prepared to enter the labor market. During the past 6 months, grantees have been progressing with student recruitment and program marketing strategies, identification of workplace skill requirements, and curriculum development.

The Department is also funding a series of demonstration projects which incorporate the effective features of the traditional apprenticeship training concept into structured work-based learning models for employed workers. These demonstration programs are intended to test ways to: (1) expand work-based learning to industries which traditionally lack formal (apprenticeship) training programs; (2) introduce apprenticeship instructional methods in upgrading worker skills; and (3) devise approaches for small and mid-sized businesses to provide work-based learning programs.

The National Advisory Commission on Work-Based Learning was announced in October 1990 to advise the Secretary of Labor on issues related to work-based training. The Commission is charged with exploring ways to enhance the skill levels of the American workforce--from front line workers to senior managers--and to encourage employers to develop high performance systems that make

better use of those talents and abilities. The Commission, which is composed of high-level executives from business, labor, education, and special interest groups, held its first meeting in Washington, D.C., in February 1991.

In a related effort, the Department of Labor recently announced a Request for Proposals to secure a contractor to conduct a study of the impact that work reorganization has on worker and firm performance. The research project will occur over a 2-year period and will involve firms which are actually undergoing restructuring.

A further effort to expand ETA's activities in improving the skills of American workers is the Training and Technology Resource Center. Funds have been allocated to begin the initial start-up phases of the Resource Center, which will serve as ETA's in-house data resource center and will allow employers, individuals, government and special interest groups to access information on issues associated with workforce training. These issues will include literacy, basic skills development, and application of technology in the workplace.

The last in a series of publications, "America and the New Economy" was produced by the American Society for Training and Development (ASTD) under a grant from the Department of Labor. The original project, initiated by former Secretary of Labor William Brock in cooperation with ASTD and its member companies, was continued under former Secretaries Ann McLaughlin and Elizabeth Dole, and successfully completed by Secretary Lynn Martin. Over a period of 5 years, four books and an equal number of booklets were produced.

"America and the New Economy" reflects findings based on 4 years of research by ASTD and numerous contacts with the Nation's employers. Among other things, the booklet identifies changes occurring in the American workplace and their implications. The basic findings reveal a new competitive environment with corresponding new competitive standards. The report concludes that there is a need for increased investments in training if our Nation is to keep pace with new skill requirements, new work processes, and the broader and deeper base of knowledge required to meet the requirements of the workplace.

#### **Oversight Initiative**

Program oversight continues to be a major priority. ETA is moving toward an oversight approach that will more sharply focus on issues which affect program and management performance and outcomes, and will devote some of its efforts to preventive

oversight, i.e., identifying issues that signal potential problems. The objectives of the revised oversight approach are to:

- o Establish an "early alert" system to identify potential policy and programming issues of national concern.
- o Improve Federal, State, and local knowledge about effective and successful program and management practices.
- o Increase the impact of oversight on State and local Job Training Partnership Act (JTPA) programs by targeting technical assistance and training resources to areas of greatest need.
- o Implement actions to correct State and local problems as soon as the deficiencies are discovered.

During Program Year (PY) 1990, this revised approach was implemented through a series of special oversight reviews in a sample of Service Delivery Areas (SDAs) in procurement and on-the-job training (OJT). The approach will be fully implemented for all ETA reviews in PY 1991.

#### **Capacity Building**

In recognition of the need to improve the quality of services and management of the JTPA program, ETA has initiated a process with the goal of establishing a system to strengthen the capacity of the JTPA system. The first step was to publish options the Department might take on capacity building to solicit the ideas and comments of the job training system on how this might best be accomplished. The components that are frequently identified as key to JTPA capacity building are: (1) training of JTPA professional staff, (2) an appraisal system which promotes quality in program delivery, and (3) recognition of staff competencies. The ETA publication presented options in each of these areas. Comment on the options will be followed by further consultation with the JTPA system, Congressional staff, and public interest groups leading to the establishment of a capacity-building system for JTPA.

#### **JTPA Rulemaking**

As a result of program oversight by ETA and other agencies, issues of JTPA program integrity have been identified which require clarification and guidance for the entire JTPA system. In order to address these issues, ETA took the first step to proposed rulemaking by publishing an Advance Notice of Proposed Rulemaking that identified the areas of fiscal and program integrity to be addressed, including procurement systems, monitoring, fixed unit price, performance based contracts, and OJT training contracts. Upon analysis of comments on the Advance Notice, proposed rules are to be published.



### **Recently Issued Rules**

The Department recently issued final rules in two areas:

**Incentive Bonuses Under Title V.** On December 27, 1990, the Department issued at 20 CFR 637 the rules for the incentive bonus programs under the new Title V of JTPA, also termed the Jobs for Employable Dependent Individuals program. This program provides bonuses for increased service and placement of AFDC and SSI recipients. However, funds may not be authorized for this program until a designated trigger level is met, which is not expected during the next few years.

**Program Participant Employment Protection Under Job Opportunities and Basic Skills Training (JOBS).** On January 23, 1991, the Department jointly with the Department of Health and Human Services published rules at 45 CFR Part 51 concerning working conditions for participants in the JOBS program.

**Dislocated Workers--Job Training Partnership Act, Title III** ETA has been developing regulations and guidelines to implement modifications to Title III to provide retraining and readjustment services to workers dislocated as a result of the requirements under the Clean Air Act; and to implement additional modifications to serve workers dislocated as a result of military base closings or funding cutbacks by the Defense Department. The Congress has not appropriated funds for the Clean Air Act readjustment requirements; and funds provided in the Defense Department appropriation for defense-impacted dislocated workers have not yet been transferred to the Department of Labor. ETA has been providing funds under its regular Title III discretionary account to respond to plant closings and mass layoffs, including a number of large, defense-related layoffs. The Agency has also been actively involved in projects in the Pacific Northwest to respond to layoffs in the timber industry as a result of efforts to protect the spotted owl.

### **Unemployment Insurance**

The Unemployment Insurance Service is continuing its work on a series of five demonstration projects to accelerate dislocated workers' return to productive employment. The demonstrations involve early intervention, offering reemployment services and/or financial incentives to intensify job search, and provision of services through a State service delivery system which links Unemployment Insurance with the Employment Service, JTPA, and Economic Development Agencies. Results from one completed project have shown that these efforts can speed the return to work in a cost effective manner. Two other projects have completed operations, and will have their evaluations completed by the end of 1991. The two remaining projects will be completed in 1993.



## **Employment Service**

### **Revision of the Dictionary of Occupational Titles (DOT)**

ETA is continuing the comprehensive review of the DOT and the occupational analysis system which produces it. The intent of the review is to promote labor market efficiency by ensuring that the DOT responds to the diverse needs of the occupational information user community, with particular attention to the needs of employers, the education community, and the training community--both public and private. The DOT Review Initiative was developed as part of the Department's Workforce Quality Agenda to ensure that the American workforce has the skills to meet the challenges of the 1990s and beyond.

ETA has convened a formal Federal advisory panel, is conducting a user survey, and is exploring new methods for collecting, analyzing, organizing, publishing and disseminating occupational information. In August 1990, a concept paper outlining the approach to be used in the DOT review was published in the Federal Register. In December 1990, the key issues raised by the initial public response were summarized. These comments will be used in the preparation of a background paper identifying how specific changes in the current and future workplace will impact the form and purpose of a revised DOT.

ETA has also contracted with the International Labour Organization to conduct research on equivalent labor market tools currently used or under development by economic competitor Nations, including: Australia, France, Germany, Japan, Sweden, and the United Kingdom. ETA staff will analyze the Canadian approach for similar information.

The DOT review is expected to be completed by spring 1992, with recommendations of the Advisory Panel on the Dictionary of Occupational Titles submitted and an ETA action plan in place by summer 1992. While this major review is in progress, the Department will maintain the efficiency of the current system by issuing an updated version of the most recent, fourth edition DOT in June 1991.

### **Employment Service (ES) Reform**

As part of its plan to improve labor market efficiency, the Department requested that ETA review options for improving the ES. The concerns were three-fold: (1) whether ES was capable of meeting the needs of a changing workforce; (2) concern that ES performance had declined substantially over the last decade; and (3) whether or not the Nation receives an adequate return for the \$800 million spent each year by the ES.

The Department sent letters to 197 business, labor, and government leaders, seeking their views on ES reform in preparation for possible legislative or administrative changes.

A similar request for comment was published in the Federal Register in September 1990. The letters and statements raised six policy options that might be pursued. Over 1900 letters were received. The responses basically supported the status quo, rejected the options for change proposed, and called for increased appropriations of Federal Unemployment Tax Act (FUTA) administrative funds. Concern was expressed at a perceived lack of Federal leadership, technical assistance, and support. ETA analyzed the responses and prepared an options paper that reflects the response to the Federal Register's request for comments on the ES Initiative. The paper also addressed the findings of a recent General Accounting Office study and other recent ES-related research.

#### **Alien Certification and Implementing the New Immigration Laws** **Alien Certification Automation**

The passage of the Immigration Reform Control Act in 1986 and its workload implications for the Department served as a significant stimulus for ETA to analyze and automate its existing Alien Certification processes.

During the previous Secretary's semiannual reporting period, a comprehensive pilot system was installed in the New York region. Relying on the Department's Information Technology Architecture (ITA-2000) hardware and software standards, this pilot successfully demonstrated the application of word-processing and data base management systems in a local area network (LAN) environment to effectively deal with ETA's Alien Certification responsibilities. The system provides the means and comprehensive tools to track applications for alien employment, made by employers, to the State Employment Security Agency (SESA). It is characterized by case management principles: each application is date-stamped; professional staff receive automated prompts when action on each case is due; statements of work-in-progress (remands, notice of findings) are automatically generated; and relevant correspondence to the outside parties is easily created.

The New York system had a pronounced effect on the responsiveness of ETA to queries from the States, employers and attorneys. During November 1990 - March 1991, this LAN-based system was exported to five other ETA Regional Offices (Boston, Philadelphia, Chicago, Dallas, and Kansas City). By July 1991, all regions will be utilizing the system. The next phase of computerization will include SESA systems for 10 States which process 90 percent of the application volume. These systems will be compatible with the ETA Regional Office system.

#### **Immigration Nursing Relief Act**

Interim Final Regulations implementing the Immigration Nursing Relief Act of 1989 were published in the Federal Register on December 6, 1990. The Act provides for the adjustment of status, without regard to numerical limitations, for certain H-1

nonimmigrant nurses and establishes conditions for the admission, during a 5-year period, of nurses as temporary workers. These conditions provide for attestations by health care facilities to certain elements supporting their need for foreign nurses. These elements include statements that: (1) a substantial disruption of health care services would occur without alien nurses; (2) there will be no adverse affect on U.S. workers; (3) aliens will be paid the same rate as U.S. nurses; (4) at least two significant steps are being taken to recruit and retain U.S. nurses; (5) no strike or lockout exists; and (6) notice of the filing of the attestation is provided to the bargaining representative or posted in a conspicuous location.

#### **Immigration Act of 1990**

The Immigration Act of 1990, enacted November 29, 1990, marks a major shift in U.S. immigration policy. This legislation creates new responsibilities for the Department of Labor in the areas of permanent and temporary employment-based immigration.

The Act increases permanent visas for employment purposes to meet projected skill shortages and modifies the permanent labor certification process by instituting a notice provision, permitting third parties to provide information on applications; and establishing a 3-year labor market information pilot program.

The Act involves DOL, for the first time, in additional temporary work visa categories by requiring employers to file an attestation with ETA when they wish to hire alien workers under visa categories H-1B (temporary professional workers), F (foreign students working off-campus), and D (crewmembers on foreign vessels performing longshore work at U.S. ports). The Employment Standards Administration (ESA) then administers the complaint-investigations-sanctions component regarding the attestations.

In addition, the Act authorizes the allocation of funds for grants to States for the purpose of educational assistance and training for U.S. workers in consultation with the Secretary of Education.

ETA has been given the lead in implementing the new law through the Immigration Task Force which was established by the Department and involves the participation of representatives from all relevant DOL agencies, which include: ESA, Bureau of Labor Statistics, Bureau of International Labor Affairs, Office of the Assistant Secretary for Policy, Office of the Solicitor, Women's Bureau, and the Office of Congressional and Intergovernmental Affairs. The Task Force is responsible for all aspects of implementing the new provisions of the Act, which will require the development and publication of regulations. An Advance Notice of Proposed Rulemaking was published in the Federal Register on March 20, 1991, for the following purposes: to announce the Department's general approach to implementation; to summarize the



provisions of the Act; to set forth the general principles which will guide the development of regulations; and to raise issues and questions about which the Department seeks public comment. The proposed regulations for alien crewmembers (D-Visas) are scheduled to be published soon since this portion of the Act becomes effective on May 28, 1991. The remainder of the proposed implementing regulations are scheduled for publication at the end of May and their effective date is October 1, 1991.

The Task Force will also be developing procedures to implement the operations of the new provisions. An overriding principle will be to streamline the process to make it as easy as possible for our systems and for the public. Workload is expected to double in the permanent category to 100,000 and is estimated at an additional 100,000 for the new temporary categories.

#### **H-2A Program Proposed Regulation Amendment**

An Advance Notice of Proposed Rulemaking to amend the H-2A program regulations by adding a methodology for determining whether a practice engaged in or a benefit offered by an employer is "prevailing" in an area was published in the Federal Register for a 30 day comment period on February 12, 1991. This proposed amendment was published in response to the Order of the U.S. District Court for the District of Columbia in CATA v. DOLE, 731 F. Supp. 541 (D.D.C. 1990). The Court had ruled that DOL had not abided by the requirements of the Administrative Procedure Act in its 1988 adoption of the methodology presently being utilized, and ordered that the rulemaking process be followed by DOL. A total of 16 comments was received on the proposed regulation. Publication of a final rule on the "prevailing" practice methodology is anticipated in FY 1992.

#### **Job Corps**

Job Corps serves a disadvantaged youth population with multiple barriers to employment. The typical youth served by Job Corps continues to be an 18 year old high school dropout who reads at the elementary school level, comes from an economically disadvantaged family, belongs to a minority group, and has never had a full-time job.

More specifically, program statistics for Program Year July 1, 1990 through November 30, 1990, show that:

- > Almost half (41%) of the students are 16 or 17 years old;
- > More than seventy percent (70.5%) are Black, Hispanic, Native American, or Asian-Pacific Islanders;
- > While the average reading level at entry into Job Corps is grade seven, more than forty percent (41.8%) of the students enter with a reading grade level of sixth grade or below;

- > More than eighty percent (81.4%) of the students are high school dropouts; and
- > Approximately seventy five percent (75%) have never been employed full-time.

The unique combination training and support services provided in the Job Corps program continues to result in positive outcomes for students in the areas of General Educational Development (GED) attainment, learning gains, job placement, and placement in educational/training institutions.

Several initiatives are underway to improve management of the Job Corps education program. With analysis of the current and projected labor market showing that more and higher educational competencies will be required in the future, in 1989, Job Corps initiated an effort to restructure and expand its education program to meet the workplace challenges of the 1990s and beyond. Competency-based curricula with course guides for seven academic subject areas have been developed, resulting in a comprehensive framework of defined competencies from pre-literacy to pre-college courses.

In the areas of reading (basic, graded and advanced), math, world of work and GED, the new program emphasizes problem-solving skills and the learning of higher-level cognitive skills. The basic education program now includes courses in writing and thinking skills. In addition, the academic curriculum was expanded to include a pre-college and advanced skills program offering courses in options for advanced education and training, computer literacy, thinking skills, communication skills, advanced writing, and advanced math.

The curriculum allows each student to progress at his or her individual pace; however, to progress effectively, students need continuous assignment of objectives and immediate feedback on assigned tasks. To meet this need, the new curriculum will be complemented by a new Computer Managed Instructional (CMI) system which provides such feedback and takes advantage of computer technology to reduce substantially the amount of time teachers spend on paperwork. A networked computerized education tracking system is being developed for the required curriculum areas of reading, writing skills, math, GED, and the world of work. Pilot testing of the new curricula and the CMI system is scheduled for January through June 1991 in four Job Corps centers.

Other education initiatives in progress are:

- o Development of a new computer literacy 6-hour course to be implemented in all centers during 1991. Students will receive this training during their first 30 days on center.

- o Development of a Health Education Program 10-hour unit on alcohol and other drugs of abuse to be pilot-tested in spring 1991.
- o Revision of four pre-service/in-service training videos by summer 1991 to be used with Job Corps center staff who will work with the new competency-based curriculum.
- o Development of programs for Orientation, Alternative Learning and English as a Second Language curricula.
- o Staff training in spring 1991 for implementation of Job Corps' first parenting education curriculum, a required course for helping students become more aware of their present and future roles as parents and their responsibilities in fulfilling these roles.
- o Pilot-tested in January 1991 a new intergroup relations curriculum designed to help reduce prejudice among staff and students by increasing mutual understanding among racial/ethnic groups and between men and women.
- o Updating each year of one-half of all Job Corps nationally developed vocational curricula materials to keep pace with changing industry standards.

#### **Specially Targeted Programs**

ETA's grant program for specially targeted groups--Native Americans under Section 401 of the JTPA, seasonal farmworkers under Section 402 of the JTPA, older workers under Title V of the Older Americans Act, and the disabled under Part IV of the JTPA--consists of approximately 330 diverse organizations. These organizations include Indian Tribes, private nonprofit organizations of various sizes, and State and local units of government.

With respect to programs for Native Americans, ETA chartered an advisory committee comprised of representatives of the Indian community to consult on a variety of short-term and long-range issues, such as better coordination of JTPA funds with tribal and other economic development activities, and revisions to the performance standards for the program. As a result of this consultative process, performance standards have been redesigned to target JTPA services to a more at-risk population, improve the quality and intensity of services, and place greater emphasis on basic and occupational skills. ETA has also discussed special joint initiatives with other Federal agencies, such as the Administration for Native Americans, as part of its efforts to coordinate JTPA resources with the resources of those agencies.

Special efforts for seasonal farmworkers have also been initiated. The ETA formed an Interagency Work Group comprised of



representatives of the Department of Education (DOE)/Office of Migrant Education, DOE/Office of Migrant Head Start, and Health and Human Services/Office of Migrant Health. The work group will develop strategies for better coordinating the resources of these offices at the State and local level. The performance standards for the seasonal farmworker program are also being revised to effect better targeting of participants most in need of services.

In the older worker program, concentrated efforts have been focused on program integration and coordination with the JTPA system. Effective coordination of these two programs will provide for comprehensive and maximum utilization of available resources.

Considerable efforts have also been directed to implementing the Memorandum of Understanding between the ETA and the Administration on Aging (AoA). A number of joint regional conferences have been held to promote linkages among JTPA, Title V, and AoA funded organizations. These conferences have resulted in older workers being better served by these organizations sharing information on job and training opportunities. ETA also serves on AoA Interagency Task Forces on older workers and older Indians.

#### **Apprenticeship**

During the previous reporting period, the Department published in the Federal Register proposed revisions to Title 29 CFR 29. The proposed rule is intended to protect the welfare of the apprentice, to improve the quality of apprenticeship programs and to ensure all current and potential program sponsors are treated equitably. The proposed rule responds to comments received in reaction to focus papers and public meetings under the Apprenticeship 2000 initiatives. Over 59,000 comments were received on the proposed changes. To date, these comments are being reviewed, analyzed, and summarized. Meetings are being held with individuals and organizations to clarify interpretations and to consider development of appropriate modifications to address comments received. A recently passed legislative prohibition on implementing these regulations is being reviewed. In the meantime, non-regulatory efforts to improve the quality of apprenticeship continue.

The Federal Committee on Apprenticeship, reconstituted as part of DOL's efforts to expand apprenticeship concepts and programs, met in September 1990. The committee discussed current apprenticeship issues and apprenticeship's role in meeting America's future needs for a skilled workforce. Other issues discussed included proposed revisions to the apprenticeship regulations, broadening the apprenticeship concept to all industries, overcoming barriers to the expansion of apprenticeship, increasing outreach to recruit women into apprenticeship, linking apprenticeship to the education system

and other training programs at Federal, State and local levels, and government's role in an expanded apprenticeship system. Subcommittee assignments were made during this reporting period, and it is anticipated that a full Committee meeting will be held in early summer 1991.

In November, the Department began a multi-faceted initiative to help women gain access to the skilled trades. This initiative contains four major components: enforcement, education and technical assistance, recruitment, and retention. The Department is increasing efforts for enforcement of laws protecting equal employment opportunity in apprenticeship for women by providing additional resources for such activities. Department staff will be increasing promotional efforts with current and potential apprenticeship sponsors to provide apprenticeship jobs to disadvantaged women. Also, the Department will be providing funding for research into problems women encounter in applying for apprenticeship opportunities and how they can be overcome.

#### **McKinney Act/Homeless Program**

The Department mailed applications to interested organizations on November 29, 1990, for a new demonstration project to test the effectiveness of comprehensive training, support, and housing programs responsive to the needs of the homeless. The Department of Housing and Urban Development is encouraging local public housing authorities to establish linkages with DOL grantees.

#### **National Center for Adult Literacy**

DOL and the Department of Health and Human Services entered into interagency agreements with the Department of Education to provide a total of \$10.2 million over the next 5 years to support the jointly funded **National Center for Adult Literacy (NCAL)**.

The Center, awarded in November 1990, is located at the University of Pennsylvania in Philadelphia. NCAL will conduct studies to expand understanding of adult literacy problems and the effectiveness of programs to combat them. It will also develop ways to improve dissemination of information to schools, job training programs, business, labor, community organizations, and government at all levels.

Approximately 16 research studies are currently being conducted by NCAL in the following areas: program participation and the delivery of services; learning and instruction; and impact and policy.

DOL provided \$500,000 in support of NCAL's first year research activities.

#### **Administrative Accountability**

Oversight continues to be a major priority. ETA has conducted two waves of special reviews at over 300 State and local SDA

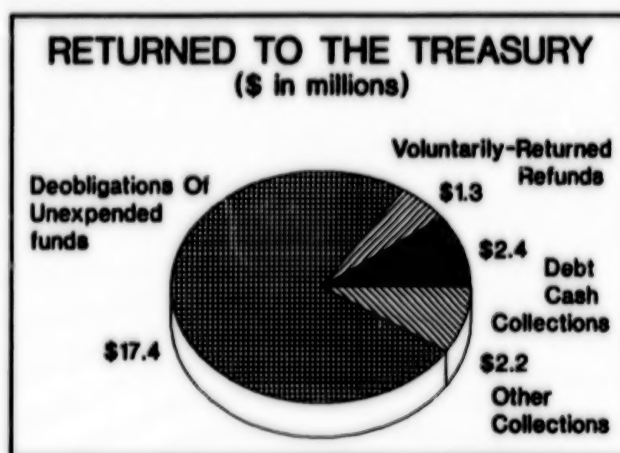


locations on procurement and OJT policies and practices. These reviews were intended to identify any deficiencies and secure prompt corrective actions to ensure program integrity. Follow-up on corrective actions for Waves I and II is currently being conducted. A third wave of special reviews is being scheduled to include additional SDAs. ETA has been finalizing a procurement training project to provide instruction to the JTPA system on procurement policies and practices. Beginning the end of April, the training will be available to the JTPA system.

In February, ETA published in the Federal Register an Advance Notice of Proposed Rulemaking (ANPR) which is the first step in the rulemaking process. The ANPR announces the Department's intent to establish regulations in several general areas to improve the integrity and overall administration and operation of JTPA programs. The rulemaking initiative will include certain procurement and contracting issues. Among the actions being considered is a requirement that the Governor submit procurement standards to the Secretary; biennially certify to the Secretary that the standards satisfy specified requirements; and certify that the State has monitored and has taken appropriate action to secure compliance. In addition, there would be a regulatory requirement that the Governor, and administrative entities in SDAs, monitor the performance of service providers.

Finally, the accountability of ETA's systems and program funds has always been the highest priority. During the first 6 months of Fiscal Year 1991, ETA has:

- > issued 175 final determinations,
- > disallowed over \$7,772,893 million, and
- > returned to the Treasury \$23.3 million in voluntarily-returned refunds (\$1.3), deobligations of unexpended funds (\$17.4), debt cash collections (\$2.4), and other collections (\$2.2).



## VETERANS' EMPLOYMENT AND TRAINING SERVICE (VETS)

### VETERANS' REEMPLOYMENT RIGHTS

By October 1990, it was clear that there would be a massive mobilization of Reservists and National Guard members. Veterans' Employment and Training Service (VETS) staff needed to plan appropriately for the significant impact of such a large mobilization on the workload for staff involved in the Veterans' Reemployment Rights (VRR) program when those servicemembers returned to the civilian work force. Under Federal law, servicemembers have a right to return to the jobs they left to go on military duty. They are entitled not only to their old jobs or an equivalent job, but also to be reinstated with the seniority, status, pay, and other benefits they would have earned had they remained on the job.

As a result, it was necessary to accelerate the implementation of a comprehensive public information program to explain the rights and obligations of both employers and workers under the VRR statute. As Operation Desert Shield began, a variety of technical assistance materials were developed, including updated public fact sheets and a comprehensive Operations Manual for staff guidance. When Operation Desert Shield was so quickly transformed into the fast-moving Operation Desert Storm in January 1991, the planning effort was also changed into an implementation mode capable of distributing public information about VRR very quickly through various media. The slogan adopted is "Job Security/National Security-----Working Together."

Several public service announcements were distributed covering both public and network radio. News releases announced the Department of Labor's toll-free telephone line. The telephone hot-line became operational March 5 with over 700 phone calls received on the first day and 1,287 after three days. As of March 22, more than 2,400 calls had been received. Secretary of Labor Lynn Martin was featured on several television talk shows and presented the VRR story and described assistance available to those returning from Desert Storm and to their employers as well. She appeared on ABC's "Good Morning America", CBS's "This Morning", and CNN's "Sonya Live" during the first two weeks of March.

All of these components of the special public information campaign have served well to catch the eyes and ears of the people for whom VRR assistance is designed to help. It is considered that most of the veterans, Reservists and National Guard members called to active duty, as well as their pre-service

employers, are now better equipped to know their rights and obligations and where to go for help. They are more aware that they are entitled to return to their previous job or to one very similar to it and that employers cannot discriminate against them because of military obligations. Most of all, there is a wealth of information still being made available to any interested parties.

Because of the relatively early start to invigorate the VRR program well before large numbers of servicemembers return to civilian life, the VETS staff will be capable of dealing with increases in workload. Since the greatest share of returning personnel will know more about their rights and their pre-service employers will know more about their own obligations, more time will be available for VETS staff to do actual case work rather than merely giving information. Finally, most VETS staff involved in VRR work will have received training in policies and procedures, to better manage the workload increases.

In addition, considerable work has been done throughout the Department, particularly by VETS staff, in anticipation of enactment of a revised VRR statute. It is considered highly likely that such new VRR legislation will be enacted in the near future. No serious implementation problems are foreseen. All former active duty servicemembers returning to civilian life will receive their full measure of assistance and advice. Of course, any changes in the statutory provisions will be quickly distributed through the public information system.

## **EMPLOYMENT STANDARDS ADMINISTRATION (ESA)**

### **Enforcement Initiatives**

ESA's Wage and Hour Division has continued its efforts to improve the effectiveness of its enforcement programs across the broad range of labor standards protections for which it is responsible.

### **Fair Labor Standards Enforcement**

During the reporting period, Wage and Hour conducted almost 31,000 compliance actions under the Fair Labor Standards Act (FLSA) and completed action on more than 24,400 complaints alleging violations of the Act's minimum wage and overtime provisions. More than \$68 million in unpaid back wages were found due to almost 194,000 workers, and more than \$58 million in back wages were recovered for more than 178,500 workers.

### **Child Labor Enforcement**

Wage and Hour continued to follow-up on and evaluate the effectiveness of its 1990 child labor enforcement program,



including four child labor strike forces, dubbed "Operation Child Watch," carried out in March, June, August and late September 1990. During 1990, Wage and Hour conducted almost 42,000 investigations to determine child labor compliance and found violations in almost 5,900 of these investigations affecting 39,790 minors illegally employed. The Operation Child Watch strike forces alone involved more than 9,500 investigations directly targeted to child labor compliance, found child labor violations in almost 3,900 of the firms investigated, and disclosed more than 28,000 minors illegally employed.

This extensive enforcement initiative, along with aggressive child labor education and outreach activities, particularly late in the fiscal year, yielded encouraging results. For example, while each of the strike forces was targeted somewhat differently, the rate of non-compliance found in the last strike force was less than half the rate found in the first strike force.

The 1990 enforcement initiative found that child labor violations and enforcement challenges varied significantly by region, industry, and season. Wage and Hour has concluded that its child labor enforcement program would be more effective if formulated and carried out locally. Wage and Hour has developed its 1991 child labor enforcement strategy to focus initially on continued education, outreach and compliance assistance to apprise employers, youth, their parents and educators of the new higher statutory civil money penalties for child labor violations and to promote broad awareness regarding the child labor laws and requirements for compliance. In addition to the ongoing program of child labor enforcement, these educational efforts will be supplemented by locally-planned enforcement initiatives targeted to those areas and industries where the most serious child labor violations are most common.

Effective March 1, 1991, a new higher civil money penalty structure for child labor violations -- occurring on or after November 5, 1990 -- became effective. Under the Budget Reconciliation Act of 1990, the maximum child labor civil money penalty was raised from \$1,000 per violation to \$10,000.

During the reporting period, Wage and Hour conducted 15,972 investigations in which child labor compliance was reviewed, found violations in 2,019 of these cases affecting 16,575 minors employed illegally, assessed \$6.5 million in civil money penalties for these violations, and collected more than \$5.2 million in civil money penalties previously assessed.

#### **Government Contracts Labor Standards Enforcement**

During the reporting period, Wage and Hour completed more than 1,650 government contracts compliance actions, including resolution of more than 1,300 complaints alleging violations, to

enforce prevailing wage requirements under the Davis-Bacon and Related Acts, the McNamara-O'Hara Service Contracts Act and other government contracts labor standards statutes. These actions resulted in findings of more than \$24 million in back wages due to about 22,600 workers, and recovery of more than \$22 million in back wages for almost 22,200 workers.

#### **Farm Labor Enforcement**

Wage and Hour's 1990 East Coast farm labor enforcement initiative continued into the first two months of the reporting period.

Nearly 1,200 investigations were carried out during the various components of the 1990 East Coast enforcement initiative, disclosing more than \$75,000 in back wages due more than 1,000 farmworkers. It is estimated that more than \$450,000 in civil money penalties will be assessed for the numerous violations disclosed from this effort alone.

During the reporting period, Wage and Hour's 1991 farm labor enforcement program was planned and initial components carried out in those areas of the country where harvest operations occurred, including in citrus, sugarcane and vegetable crops in Florida, the Southwest and in California and Arizona. More than 1,600 investigations under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) were carried out, as well as almost 500 housing inspections, 92 H-2A investigations, and more than 700 Reportable Worker investigations.

#### **Regulatory Initiatives**

##### **Amendments to the Fair Labor Standards Act**

In March, Wage and Hour undertook an extensive education/outreach campaign to promote public awareness of the final statutory increase in the federal minimum wage as provided by the 1989 Amendments to the FLSA. Effective April 1, the minimum wage increased to \$4.25 an hour, and the training wage increased to a minimum of \$3.62 an hour.

Proposed regulations to implement a provision in the 1989 FLSA Amendments permitting employers to provide up to ten hours per week of remedial education to certain employees under specified conditions without requiring payment of overtime premium pay for this time were published for comment on March 5, 1991. The public comment period closes on May 6, 1991.

On February 27, 1991, interim final regulations were published to implement a new FLSA exemption for certain computer system analysts, computer programmers, software engineers and other similarly skilled computer professionals from the minimum wage and overtime requirements provided their rate of pay exceeds six

and one-half times the minimum wage. These regulations became effective on March 29, 1991, and the public comment period on the interim final rule closed on April 29, 1991.

#### **Child Labor**

Wage and Hour published proposed rules on October 23, 1990, and is currently reviewing comments received regarding its proposed revisions to three non-agricultural hazardous occupations orders applicable to minors under the age of 18. These proposed revisions include the elimination of a waiver provision to allow minors to drive school buses under certain conditions, and clarify prohibitions on the employment of minors in jobs that involve the use of power-driven meat slicers and paper balers.

In addition, final regulations were published on February 28, 1991, to update the child labor regulations with the statutorily increased child labor civil money penalty ceiling applicable to child labor violations occurring after November 5, 1990, in assessments issued starting March 1, 1991.

#### **Regulations Providing for the Expanded Use of Helpers on Davis-Bacon Covered Projects**

Regulatory changes allowing for the expanded use of helpers on Davis-Bacon (DB) covered construction projects became effective February 4, 1991, after a Federal Register Notice providing 60-days advance notice of their effective date was published in December 1990.

To implement these regulations, Wage and Hour issued guidance to all federal contracting agencies advising them of the revisions, obtained approval from OMB of the Davis-Bacon wage survey form to accommodate the collection of helper data, began revising its automated wage survey system and developed necessary procedures and criteria for conducting wage surveys involving helpers and for processing requests for additional classifications and wage rates for helpers (conformances). These activities were suspended, however, following enactment of the Dire Emergency Appropriations Bill which prohibits the Department from expending funds to implement the helper regulations.

#### **Employee Polygraph Protection Act**

On March 4, 1991, the Department issued final regulations under the Employee Polygraph Protection Act. These regulations provide employees and prospective employees in the private sector with protection against polygraph testing both in pre-employment settings and during the course of their employment, with certain limited exceptions.



## **Management Initiatives**

### **Implementation of Quality Management**

During the reporting period, Wage and Hour completed initial training of all managers in quality management concepts, principles and skills. Training for all National Office and the majority of the field employees was completed. The objectives of the training are to enable Wage and Hour to begin to use quality management approaches to improving the effectiveness of its work processes, enforcement and service delivery programs by: developing understanding of the Wage and Hour Quality Model, its concepts and inherent values; developing understanding of the concept of "customer" as it relates to work processes; developing abilities to use key quality tools and processes; providing experience in Wage and Hour's 10-step process for managing continuous improvement; and demonstrating techniques for improving team functioning.

Consistent with quality management principles, Wage and Hour operational planning and evaluation mechanisms, and field managers' performance standards were substantially revised. Performance standards for Wage and Hour Investigators are being revised. Program performance will be measured by quality, timeliness, and effectiveness in providing services to the agency's many diverse customers.

Likewise, ESA's Office of Policy Management and Analysis (OPMA) staff received training in total quality management concepts, and has initiated three projects to improve service delivery. These projects include an OPMA tracking system, the process for developing and impacting Congressional testimony and related materials, and information systems operations and improvements.

### **Management Improvement Standards**

Under OMB's Productivity Improvement Plan, the Office of Federal Contract Compliance Programs (OFCCP) put into place several management controls and initiatives to reduce its inventory of aged compliance reviews and complaint investigations. The standard set by the OFCCP was that no more than five percent of its open cases would be aged.

At the end of the first quarter, FY 1991, 2.8 percent of open compliance reviews and 8.6 percent of the open complaint investigations were aged. The increase in aged complaints corresponds to the increase in complaints filed. Complaints may have increased because of the attention focused on the recently passed Americans with Disabilities Act (ADA). OFCCP will continue to focus on these productivity efforts during the remainder of FY 1991.

### **Improved Enforcement Procedures**

To strengthen the effectiveness of the OFCCP enforcement program, a procedure to review and initiate enforcement proceedings against a contractor whenever it is determined that the contractor has violated the terms of a conciliation agreement has been implemented. The Directive, issued in January 1991, clarifies that such violations cannot be conciliated again but must be considered a novel issue and referred for enforcement action to the National Office.

### **OFCCP/BAT Initiative: 29 CFR 30 Enforcement**

Secretary's Order No. 4-90 issued on November 15, 1990, gave dual apprenticeship enforcement authority to the Assistant Secretary for Employment Standards and the Assistant Secretary for Employment and Training for the equal employment opportunity apprenticeship and training requirements found at 29 CFR Part 30. The Office of Federal Contract Compliance Programs (OFCCP) and the Bureau of Apprenticeship and Training (BAT) as the respective program representatives, entered into a Memorandum of Understanding (MOU) to implement the Order.

The Secretary also announced an Initiative to Support Women in the Skilled Trades. This multi-faceted departmental initiative to help women gain access to the skilled trades is a joint effort which involves the Bureau of Apprenticeship and Training, the Office of Federal Contract Compliance and the Womens' Bureau (WB). The initiative consists of four major components:

- Part 1 - Education and Technical Assistance;
- Part 2 - Recruitment;
- Part 3 - Placement and Retention; and,
- Part 4 - Enforcement

OFCCP, WB, and BAT are developing an enhanced outreach program and will promote a public relations campaign designed to reach all interested parties.

### **OFCCP/BAT Initiative: 29 CFR 30 Enforcement Training**

Training is being developed jointly by OFCCP, BAT, and the Employment Standards Administration's Branch of Training and Development. Of the major tasks required to accomplish this objective, the first, information exchange, is nearly complete. BAT and OFCCP staffs are now working to develop procedures for enforcement coordination and a training program. Delivery of the training to all BAT and OFCCP staff is scheduled for July through September in five joint agency sessions.



### **Significant Case Results/Significant Findings**

Section 503 of the Rehabilitation Act of 1973 requires that persons with disabilities be able to compete fairly for employment opportunities on the basis of the ability to perform work as required.

Several significant cases were resolved during the past year which have served to reduce employment discrimination against the disabled. Significant settlements included:

- o A major airline agreed to \$324,463 in back pay for denying employment to 12 individuals with disabilities.
- o A major aerospace company compensated 20 individuals \$119,928 who were denied employment based on perceived disabilities.
- o Another large corporation agreed in a settlement to pay \$230,514 to 16 individuals denied employment at one of its establishments based on perceived disabilities.

### **Voluntary Compliance Efforts**

**National Industry Liaison Group Conference** - What began in 1982 as an experimental initiative has emerged as an important way of improving communications and strengthening relationships between federal contractors and the Office of Federal Contract Compliance Programs.

The liaison group initiative was introduced to help remove recurring barriers to program effectiveness. Meetings are held regularly with regional directors to discuss current equal employment opportunities and contract compliance issues of interest to the groups' members. A national conference is hosted annually by one of the liaison groups in a different region to bring together private sector human resources managers and equal opportunity officers with agency officials to discuss mutual goals and objectives and to encourage cooperative compliance efforts.

**EVE/Opportunity 2000 Awards Program** - The office honored nine outstanding federal contractors with the 1990 Exemplary Voluntary Efforts (EVE) Awards at a banquet on October 23, 1990.

The Exemplary Voluntary Efforts Award recognizes federal contractors and contractor associations that have demonstrated innovative efforts to increase employment opportunities for minorities, women, individuals with disabilities and

veterans. The EVE Award is presented for highly successful affirmative action programs which might include, but not be limited to:

- o Management development programs designed to address and eliminate barriers to upward mobility in corporate management;
- o Innovative outreach and recruitment programs designed to attract minorities, women, individuals with disabilities and Vietnam era and disabled veterans;
- o Labor management relations programs fostering the establishment of labor-management joint EEO committees for the purpose of involving both labor and management in the planning and practice of affirmative action and equal employment opportunity in the workplace;
- o Employee development programs which provide training and developmental assignments for employees; and,
- o Employee support programs which provide services and strategies for dealing with work and family issues.

#### **The Construction Mega-Project Initiative**

A Construction Mega-Project Initiative has been included in the overall OFCCP enforcement strategy. Such projects involve multi-million dollar contracts, are expected to have major economic and employment impact upon their communities, and the duration of the construction period is one year or longer.

The site-oriented review approach of very large federally funded construction projects could have a broader, more lasting impact and benefits for qualified women and minorities, especially women in non-traditional jobs.

One of the mega-projects in this initiative is the new Federal Office Building in Chicago, which has already achieved significant results. The employment of minorities in all trades has consistently remained at 42 percent of the work hours, and eight percent of the work hours for women, both of which greatly exceed regulatory requirements. In addition, 26 subcontracts worth approximately \$32 million have been awarded to 24 small, disadvantaged, women-owned or minority-owned firms.

#### **Federal Employees' Compensation Act (FECA) Periodic Roll Review**

The Office of Workers' Compensation Programs is embarking upon several initiatives to promote the return to work of beneficiaries, and thus cut long-term benefit costs. The principal effort is a four-year comprehensive review of all periodic roll cases, with initiation of medical evaluations and

vocational rehabilitation activity where needed. The President's FY 1992 budget now before the Congress includes funding for 100 term staff starting on April 1, 1992. Plans call for this number to rise to 200 in the FY 1993 budget request and to remain at that level throughout the rest of the project, provided the resources are available. If Congress approves, staff will be divided into teams composed of claims examiners, supervisory claims examiners, rehabilitation specialists, nurses, and clerks.

While pilot testing revealed that the percentage of periodic roll cases in which payment was clearly incorrect was gratifyingly low at approximately 1.5 percent, a larger percentage required medical or rehabilitation intervention. The periodic roll review initiative is designed to provide such intervention, thus reducing the number of long-term disability benefits recipients and providing meaningful reemployment opportunities to larger numbers of injured workers. FECA expects to save approximately \$51 million in benefit costs during the life of this initiative by reducing the long-term disability benefit rolls.

The budget also includes a request for spending authority to fund a four-year Assisted Reemployment demonstration project. The project would allow both government and private employers to recoup a portion of the salary expense from the Special Fund (charged back to the original federal employer) when they hired injured federal workers. Program costs would not increase because salary expenses would simply replace benefit payments to the injured worker. Initially, the program estimates that approximately 60 persons per year will be reemployed, although the project could produce even better results.

#### **FECA Early Intervention and Case Management**

FECA has completed testing the use of nurses to visit claimants and communicate with them and their physicians to promote good medical care and early return to work. A bulletin was issued to the field on February 28, 1991, outlining the procedures for implementing and managing this voluntary program. District offices in Boston, Philadelphia, Dallas and Seattle have already started using nurses, while San Francisco and Denver expect to begin during the third quarter of FY 1991. (Kansas City, New York, and District Office 25 in Washington are not expected to implement this program at this time, as they have been designated to conduct pilot studies involving early intervention in low back injury claims, using a protocol that emerged from a joint research project with the National Institute of Occupational Safety and Health.)

#### **Implementation of Office of Workers' Compensation Data System Enhancement Project**

The long-planned implementation of the FECA data system for FECA district offices has been completed and the integration of Longshore computer operations into the new system is well under

way. The new system came on-line in Kansas City in November, 1990, completing the last of the FECA district office conversions to the new equipment.

The last Longshore collocated office, Boston, was integrated during the third week of December, 1990. Longshore's offices which are not collocated with FECA offices will be connected with telecommunication links over the next fiscal year. The new system, which supports all three ESA operating programs, replaces 15-year-old equipment and provides each claims examiner (and most other staff) with a data terminal for the entry of benefit payments and case management information. The system performs all the operations accomplished by its predecessor and provides the basis for a series of needed enhancements, including a complete financial accounting system for FECA.

#### **Procedure Manual Revisions**

Revisions of the major chapters in the OWCP Rehabilitation Procedure Manual were issued in February, 1991, setting firm guidelines for the case managers who work under contract to provide rehabilitation services to injured workers. All of the remaining chapters will be revised by the end of the third quarter, FY 1991.

In addition, the revised FECA Medical Manual (Part 3 of the FECA Procedure Manual) was distributed to the FECA district offices in November, 1990. This revision brings the Medical Manual up to date and provides comprehensive guidance to district office personnel regarding medical issues and procedures.

#### **FECA Expanded Medical Fee Regulations**

Final regulations expanding the FECA fee schedule to certain procedures supplied by hospitals in an outpatient setting were published on January 14, 1991 and became effective on May 14, bringing more equity to the application of the fee schedule. Changes to the automated system are underway. At the same time, OWCP made adjustments to the maximum allowable fees for some services following the annual adjustments announced for Medicare by the Health Care Financing Administration. Hospitals which serve FECA injured workers are expected to comply with the new rules for billing and coding formats.

#### **Longshore and Harbor Workers' Compensation Special Fund**

Contract audits of Longshore Reports of Payments continue at an accelerated pace in FY 1991. These reports are required from all insurance carriers and self-insured employers authorized under the Longshore and Harbor Workers' Compensation Act and form the basis for the calculation of the Special Fund assessment.

The Longshore program has selected 32 firms for audit during FY 1991. A contractor is performing these audits using the audit guide that it developed during FY 1990.



The program also plans during FY 1991 to review 70 reports of outstanding claims and payments filed by self-insured employers and, for the first time, to include some reports filed by insurance carriers, to insure that adequate reserves are maintained for future liabilities.

#### **Black Lung Case Monitoring for Cases Involving Benefit Payments**

The Black Lung program initiated the next phase of its payment case monitoring initiative on March 1, 1991 by mailing an informational circular to selected claimants who receive monthly or medical benefits from a coal mine operator or medical benefits from the trust fund. Complete case reviews, designed to detect and correct inaccurate automated data base information, duplicate payments, incorrect payment amounts, incorrect claimant addresses and other problems are planned to coincide with the mailing activity.

The program expects to complete mailings and reviews on all cases in the above-mentioned three categories by the end of the 2nd quarter, FY 1992. Cases involving trust fund monthly benefit recipients were completed during FY 1990.

#### **Black Lung Medical Cost Monitoring**

The Black Lung program has been using National Drug Codes for pharmaceutical reimbursements since August, 1990. This identification system permits closer monitoring of usage and pricing. So far, the use of these codes has been cost-effective, resulting in an average weekly cutback of 10% in the program's pharmaceutical payouts.

### **MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)**

#### **Job Safety Analysis (JSA) Steering Committee**

A Job Safety Analysis (JSA) Steering Committee comprised of senior representatives of mining associations, the mining industry, labor, state government and the Federal government was established by MSHA and held its first meeting November 14, 1990. The purpose of this meeting was to develop recommendations relative to the direction, promotion and implementation of job safety analysis throughout the mining industry. Breakout groups held discussions on a variety of topics including promotion methodologies for the JSA concept, small mines outreach, and evaluation and sharing of accomplishments. By way of explanation, JSA consists of a thorough examination of a particular mining job by both management and labor to isolate each step in performing a task and to identify major safety hazards so they can be avoided. The second meeting of the JSA

Steering Committee will be held in April to follow-up on previous activities and plan for future actions.

#### **Job Safety Analysis (JSA) Satellite Uplink**

In February 1991, the Assistant Secretary participated in the first satellite uplink program on Job Safety Analysis (JSA) from the National Mine Health and Safety Academy in Beckley, West Virginia. He communicated his commitment to the JSA approach as a voluntary cooperative effort between industry and MSHA to improve safety in the mining environment. Panel members from the National Stone Association, Texasgulf Corporation and American Electric Power responded to questions from the listening audience which numbered approximately 2100 at 120 separate downlink locations. Video presentations were shown which highlighted miners discussing the application of JSA in their particular mining operations.

#### **Dust Sample Tampering**

Underground coal companies are required by the Mine Act to submit dust samples to MSHA. These samples assess the effectiveness of underground coal mine operators' dust control plans and are a major part of MSHA's efforts to combat occupation-related illnesses such as pneumoconiosis, known as black lung disease. Based on an investigation which began in February 1989 and which was expanded industry-wide in August 1989, the Peabody Coal Company pled guilty in January 1991 to three counts of tampering with samples of respirable dust and agreed to pay a \$500,000 fine. Other criminal investigations are continuing with announcements of widespread tampering expected in the near future.

#### **Fatal Alert Bulletin Program**

In January 1991, MSHA implemented a fatal alert bulletin program. Its purpose is to give early notice to the mining industry of a loss of life in the mines. A brief description of the fatality is provided to industry leaders, unions, associations and other individuals and organizations who may be able to enhance safety awareness. By disseminating preliminary fatal accident information quickly, usually within 5 days, MSHA provides timely information to the widest possible audience in an effort to have a positive effect on accident/fatality incidents. Recipients of these fatal bulletins are encouraged to further disseminate the information to affiliated groups and organizations.

#### **Assistant Secretary Personal Outreach**

The Assistant Secretary has committed to a personal outreach effort to families of victims of fatal mining accidents. He writes a letter to the family to convey sympathy on behalf of the Agency. The correspondence also emphasizes MSHA's continued commitment toward efforts to improve safety in the mining environment, promises a copy of the accident investigative report



upon its completion, and identifies Agency officials to whom the family is encouraged to direct any questions.

This personal involvement by the Assistant Secretary comes from the belief that MSHA's commitment toward safety and health in the mining community has far reaching implications and obligations.

#### **Four-State Initiative**

The purpose of the four-state initiative is to reduce injuries and fatalities in Kentucky, Pennsylvania, Virginia and West Virginia, where historically 70 percent of the Nation's coal mine fatalities have occurred. The goal is to be accomplished through increased cooperation, coordination and communication between state agency personnel and MSHA Coal district managers, so that they may formulate strategies, develop action plans, and cooperatively implement and evaluate the effectiveness of such plans for reducing accidents in each of these four states.

In January 1991, West Virginia officially joined with MSHA in this new cooperative program to reduce serious mining accidents in that state. The joint mine assistance program developed by the West Virginia Division of Energy and MSHA will concentrate on mines with fewer than 50 employees. Safety and health compliance records, accident history, inspector input and other factors will be used to select mines for extra safety and health attention. Assistance in improving safety conditions and practices is an integral feature of the joint mine assistance program.

Cooperative efforts are ongoing in Kentucky, Pennsylvania and Virginia to focus joint inspection, education and other assistance activities toward safety improvements.

#### **Special Emphasis Program**

MSHA's Special Emphasis Program to prevent major mine accidents was initiated in February 1991. This program will identify coal mines that display certain violation profiles and other characteristics associated with mines where multiple fatal accidents have occurred. The program will provide a systematic method for identifying mines with compliance problems that may lead to accidents, and for determining whether the level of inspections and other activities is commensurate with the identified problems. MSHA district offices will analyze mine compliance histories and physical conditions to determine which mines will be included in the program and then develop and implement a plan to improve compliance at these mines. This plan may include a combination of engineering assistance, education and training activities and changes in enforcement strategy designed to address the underlying causes of the identified compliance problems.

The parameters of this program were communicated through the Agency's formal directives system to MSHA managers, underground coal mine operators and special interest groups.

#### **Interdepartmental Task Force on Illegal Mining**

In March 1991, the Mine Safety and Health Administration joined the Department of Justice's U. S. Attorney for the Eastern District of Kentucky, and the Department of Interior's Solicitor and Director of the Office of Surface Mining Reclamation and Enforcement in an interdepartmental task force effort. The task force goal will be to focus federal enforcement efforts to combat illegal coal mining activities in the State of Kentucky.

#### **Regulatory Activity**

MSHA's final rule to address mines with a pattern of violations became effective October 1, 1991. This rule implements a statutory provisions targeted at bringing into compliance mines where operators habitually allow violations of standards to occur, resulting in serious safety or health hazards.

In November, MSHA published a proposed hazard communication rule to provide miners with the means to receive necessary information on the hazards of chemicals to which they are exposed and the action necessary to protect their safety and health.

In December, the Agency published proposed revisions to its existing procedures for assessing civil penalties. These revisions would include across-the-board increases in the civil penalty program and address an excessive history program.

In January, MSHA published revisions to its safety standards for explosives at metal and nonmetal mines. The revisions upgrade existing provisions consistent with advances in mining technology. However, the effective date of the rule has been stayed.

On February 1, 1991, the revisions to MSHA's rules of practice for petitions for modification of mandatory safety standards became effective. The final rule added time frames for consideration of petitions to expedite the process and revised existing procedures for evaluating applications for interim relief.

In March, the Agency completed two series of hearings on regulatory proposals related to the use of diesel-powered equipment in underground coal mines and air quality at all mines. After the record closes on each of these rulemakings later this year, the Agency will begin development of final rules.

## **OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)**

### **New Penalty Policies**

OSHA has implemented its new compliance directive providing uniform guidance on the handling of major egregious enforcement cases which merit citations on a violation-by-violation basis. This policy has resulted in the largest penalties in OSHA history. The agency is issuing a directive on corporate-wide settlements that include several worksites of the same employer and may involve several OSHA regions. OSHA uses corporate-wide settlement agreements to maximize the hazard abatement impact of a single inspection. In March 1991 OSHA implemented the seven-fold increase in the maximum limits for penalties, enacted by Congress in the Omnibus Budget Reconciliation Act of 1990. The maximum allowable civil penalty is now \$70,000 for each willful or repeated violation, and \$7,000 for serious, recordkeeping and abatement violations. A minimum penalty of \$5,000 for a willful violation has been adopted.

### **Protection From Bloodborne Diseases**

OSHA has published a booklet that outlines the agency's current requirements and enforcement procedures with respect to workers who are exposed to blood or other potentially infectious materials. These requirements are being enforced through section 5(a)(1) of the Act, which imposes a general duty on employers to maintain a workplace free from recognized hazards likely to cause death or serious physical harm. The booklet includes sections on an establishment's infection control program and its components. These requirements will soon be superseded by a final regulation that will protect workers against the hazards of bloodborne diseases such as AIDS and hepatitis B. This is the first major action that specifically protects American workers against biological hazards. This protection will be extended to an estimated five million workers in health care occupations, emergency response occupations, correctional facilities, research laboratories, and the funeral industry.

### **Lift-Slab Construction**

In October 1990, OSHA issued a final rule designed to increase worker protection during lift-slab construction. This rule completes the agency's concrete and masonry construction standard which was published in June 1988. The lift-slab method of construction, while not widely used, has come under increased scrutiny since the 1987 L'Ambiance Plaza accident which claimed 28 lives. That accident prompted OSHA to reopen the record for revisions to the concrete and masonry standard. The new rule prohibits employees, except those engaged in lifting, from being in a structure during the operation unless an independent,



registered professional engineer has determined that the structure has been reinforced sufficiently. The new standard also requires that a registered professional engineer design and plan the lift-slab operation, and that lifting jacks be equipped with safety devices.

#### **Stairways and Ladders**

A revised standard for stairways and ladders used in the construction industry went into effect on January 14, 1991. Compliance with this rule is expected to improve employee protection, because the revised standard provides clearer guidance regarding employers' duties and the appropriate measures for compliance. The standard, which covers both portable and fixed ladders, includes such issues as installation, minimum weight capacity, ladder safety devices, landings, stair rails and handrails. A booklet entitled "Stairways and Ladders," containing a concise overview of the revised standard for easy reference and use on job sites, was published in March 1991. The booklet can be obtained free on request from the OSHA Publications Office.

#### **Process Safety Management of Highly Hazardous Chemicals**

As part of its special emphasis program in the petrochemical industry, OSHA has begun publishing ChemAlert, a one-page fact sheet containing practical advice on common process safety questions. The flyer, to be published four times a year, is intended to identify potential hazards and possible solutions to help the chemical and petrochemical industries assure the safety of chemical processes. Information in the flyers will be derived primarily from the inspections that are being conducted as part of the agency's special emphasis program targeted to areas where petrochemical production plants are heavily concentrated. Using illustrations, the flyers will describe an aspect of process safety, highlight improper work practices, and recommend ways to reduce safety and health risks. Hearings have been held on OSHA's proposed standard for process safety management of highly hazardous chemicals, designed to prevent catastrophic explosions such as the one in 1989 at the Phillips Company's Houston complex. The rule will cover approximately 28,000 establishments employing 2.2 million people.

#### **Joint OSHA/EPA Workplan**

OSHA and the Environmental Protection Agency (EPA) issued a Memorandum of Understanding (MOU) in November 1990, agreeing to combine their enforcement activities in areas of overlapping jurisdiction, beginning with OSHA's petrochemical special emphasis inspection program and EPA's lead pollution reduction strategy. The long range goal is to improve the protection of America's workers, the general public, and the environment at all facilities where their objectives overlap. Employers subject to the provisions of both OSHA and EPA will find that joint inspections are less disruptive to their operations than separate



inspections. This MOU is the broadest cooperative agreement that OSHA has ever undertaken, since it provides for ongoing data exchange, cross-training of inspectors, technical and professional assistance and referrals of alleged violations.

## **OFFICE OF THE SOLICITOR**

The Office of the Solicitor provides legal services to all programs of the Department. The following activities represent the highlights of the reporting period.

### **Supreme Court Decisions**

On March 20, 1991, the Supreme Court issued a favorable decision in Martin v. Occupational Safety and Health Review Commission. In a unanimous decision, the Court ruled that the Secretary's reasonable interpretation of regulations issued under the Occupational Safety and Health Act, rather than the Occupational Safety and Health Review Commission's interpretation, is entitled to deference.

On February 20, 1991, the Supreme Court issued a favorable decision in International Organization for Masters, Mates and Pilots v. Brown, holding that under the Labor-Management Reporting and Disclosure Act (LMRDA), a union must comply with a candidate's request for distribution of campaign literature as long as it is reasonable, regardless of a contrary union rule curtailing the period in which campaign literature may be mailed.

### **Major Litigation and Settlements**

#### **OSHA Cases**

On February 21, 1991, a federal jury in Milwaukee found S.A. Healy Co. guilty on three counts of criminal violations of federal job safety and health regulations. On March 21, the court set the criminal penalty at \$750,000. The case arose out of a 1988 tunnel explosion in Milwaukee, which resulted in the deaths of three workers.

The jury in Milwaukee found that Healy was responsible for the deaths by failing to instruct the tunnel employees in the recognition, avoidance and the nature of hazards when working in confined spaces; failing to de-energize electric power in the area of the tunnel where high levels of methane gas were detected; and failing to install explosion deterrents in hazardous tunnel locations.

On December 21, 1990, a major OSHA case was settled against the USX Corporation. The agreement provides for the abatement and

correction of numerous citations in Fairless and Clairton, Pennsylvania, as well as corporate-wide abatement of conditions relating to recordkeeping, hazard communication, hearing conservation and cranes. USX also paid a penalty of \$3.25 million dollars.

The Department entered into a settlement agreement with Arco Chemical Co., by which Arco paid \$3,481,300 in penalties in an action growing out of a large explosion and fire which occurred at the Arco facilities in Channelview, Texas. Five Arco employees and eleven employees of a maintenance contractor and one truck driver were killed in the accident.

A temporary retraining order and, later, a preliminary injunction, were obtained requiring Master Metals, Inc. to remove all employees whose blood lead levels exceed the limits imposed by OSHA regulations. In a parallel action, OSHA issued citations seeking \$422,000 in civil money penalties.

#### **Fair Labor Standards Act**

The Commonwealth of Massachusetts entered into a settlement agreement to pay \$1,393,000 in back wages to patient workers at seven residential schools for the mentally retarded. The back wages will be distributed to 475 present and former patients.

A consent decree was entered into with Papa Gino's of America, Inc., providing for the payment of \$425,000 to former manager trainees of a chain of over 200 pizza restaurants in New England and New York.

A major investigation of the State of New Jersey's Division of Human Services resulted in a consent judgment for an injunction against the State on overtime and recordkeeping violations, and payment of overtime compensation due of \$1,858,494 for pre- and post-shift overtime violations and interrupted mealtimes for approximately 1700 employees at seven state hospitals.

A consent judgment was agreed to with Kimberly Services, Inc., a national health care provider, to pay proper overtime at all locations as well as to restore \$432,647 in overtime and liquidated damages to 150 non-exempt LPNs and RNs.

#### **Child Labor**

On December 27, 1990, a complaint was filed for injunctive relief against Hardee's Food Systems, Inc., the nation's third largest fast food chain, alleging numerous child labor violations at various locations in several states involving the Department's time and hours standards.

A suit was filed and consent findings agreed to by 21 McDonald fast food franchises to pay \$103,400 in child labor civil money penalties affecting 515 minors.

### **Employee Retirement Income Security Act (ERISA)**

On March 14, 1991, the Department filed the first civil action attacking an allegedly fraudulent multiple employer welfare arrangement. It was alleged that the principals of the OMNI Medical Health and Welfare Trust marketed to small business participation in what was characterized as an ERISA-covered health plan. The Department alleged, however, that these individuals were in fact selling health insurance, and were seeking to avoid state and federal regulation. Criminal indictments of the principals were also returned on March 14 pursuant to a joint Inspector General/PWBA investigation.

On December 3, 1990 a federal district court in South Carolina entered a settlement agreement and order requiring the Graniteville Company to pay the company's Employee Stock Ownership Plan (ESOP) \$7,628,000 in restitution. Graniteville will also pay a \$236,000 civil penalty. The Secretary had alleged violations of ERISA in the failure of the ESOP's fiduciaries to enforce a commitment made by the company to pay the ESOP funds recouped by the company upon termination of two pre-existing pension plans.

### **Comprehensive Employment and Training Act (CETA)**

A favorable decision was received ordering Monmouth County, New Jersey to pay \$685,703 in misspent CETA funds to the Department of Labor.

### **Labor Certification**

A favorable decision was obtained from the Court of Appeals for the D.C. Circuit in AFL-CIO v. Dole. The case involved a challenge by farm worker advocates to the new methodology for setting the Adverse Effect Wage Rate (AEWR) for the admission of temporary non-immigrant alien workers to perform agricultural work. The AEWR is the minimum wage that must be offered by employers seeking to employ such workers.

### **Legislation**

#### **Veterans' Rights**

On March 5, 1991, the Secretary of Labor transmitted to Congress a bill, entitled the "Uniformed Services Employment Rights Act of 1991." The bill is intended to ensure that all persons returning from serving the nation in the uniformed services, including those who served in support of Operation Desert Shield/Storm, will be provided reemployment and concomitant rights with their pre-service employer. It preserves the rights given in the current Veterans' Reemployment Rights law while eliminating distinctions in treatment based on categories of military service or training. It also clarifies the rights and obligations of both employers and returning employees. These improvements and clarifications in the law should make the law easier to understand and to administer. On May 14, H.R. 1578, a bill strongly supported by the Administration, was passed by the House and awaits Senate action.

## **PENSION AND WELFARE BENEFITS ADMINISTRATION (PWBA)**

### **ERISA Enforcement Legislative Proposals**

Legislative proposals to improve ERISA enforcement and to regulate the scope and adequacy of audit work performed by independent public accountants (IPAs) were introduced in Congress in October 1990. Topics included in the Department's bill covered the following areas:

- Repealing the limited scope exemption for certain plan audits;
- Requiring that IPAs conducting ERISA audits obtain a peer review every three years in order to remain qualified to perform such audits;
- Providing additional incentives for participants and beneficiaries to exercise their private rights of action under ERISA;
- Strengthening disincentives for unlawful behavior by increasing the existing excise tax penalty and civil penalties for prohibited transactions from five percent to ten percent;
- Requiring multiple employer welfare arrangements (MEWAs) to file annual registration statements with the Department of Labor and certify that copies of the registration statements have been transmitted to Insurance Commissioners in the States in which the MEWAs conduct business; and
- Requiring plan fiduciaries to disclose policies regarding proxy voting of stock they hold.

The Department of Labor will continue to refine the legislative proposal prior to resubmitting a package to Congress.

### **Strengthening Federal and State Regulation of Health Care Providers**

In the first half of FY 1991, PWBA has continued its commitment to assist states in dealing with multiple employer welfare arrangements (MEWAs). Investigations into the operation of MEWAs to ensure that they are operated in accordance with ERISA requirements are a priority under PWBA's "significant issue" enforcement strategy. That strategy directs 50 percent of field investigative resources to investigations of financial institutions that act as fiduciaries to employee benefit plans and service providers to employee benefit plans. As of March 31, 1991, we had 67 investigations pending with respect to MEWAs. Last year at this time, the Department had 54 on-going



investigations. With the increase in PWBA's field enforcement staff in FY 1991, PWBA expects to be able to continue to devote significant resources to investigations of MEWAs.

PWBA also continues to provide expeditious reviews of MEWA-related advisory opinion requests from state insurance commissioners and in this reporting period has issued 20 advisory opinions concerning MEWAs and provisions of sections 3(40) and 514 of title I of ERISA. PWBA is distributing, on a quarterly basis, copies of all advisory opinions concerning MEWAs to the insurance commissioners of each state. Copies of advisory opinions are, upon issuance, furnished to the National Association of Insurance Commissioners, which, in turn, disseminates the letters through their information service which also provides on-line information to the states regarding MEWAs subject to cease and desist orders.

#### **Participant-Directed Individual Account Plans**

PWBA issued proposed regulations under ERISA Section 404(c) to provide participants more flexibility in managing their individual benefit accounts. Under the proposed rules, the employee benefit plan must provide an opportunity for the participant to:

- Choose from a broad range of investment alternatives;
- Have a reasonable opportunity to give investment instruction; and
- Diversify investments, both generally and within investment categories.

In addition, a Section 404(c) plan must, at a minimum, provide a participant with an opportunity to give investment instruction at least once within any three-month period.

#### **ERISA Reporting Compliance Program**

The enforcement and educational efforts of PWBA's reporting compliance program have led to excellent improvements in the way in which plan sponsors, plan administrators and service providers comply with ERISA's reporting requirements. Through assessments of penalties for failure to correct unsatisfactory filings, special projects designed to detect specific filing errors and through its public outreach and technical assistance efforts, PWBA has greatly increased the private employee benefit plan community's understanding of the importance of providing accurate and timely information required to be filed with the Department. During this reporting period, 240 filings were rejected and penalties totaling \$3.7 million have been assessed against 52 employee benefit plan administrators.

### Improved Response to Telephone Inquiries

A new automated telephone system was installed in PWBA for responding to public inquiries about ERISA. A series of recorded messages now gives callers general information about their rights in the areas of pension benefits, health benefits (including continuation of health benefits under COBRA), other welfare plan benefits and the filing of claims.

The system also allows people to order publications about these subjects and permits them to transfer to a benefits advisor if the recorded messages do not answer all of their questions. It is anticipated that this system will provide better opportunity for the general public to receive basic information about the law, while also allowing more staff time for response to written inquiries.

## BUREAU OF LABOR STATISTICS (BLS)

### Management Accomplishments

The Bureau of Labor Statistics has recently completed a project in its continuing effort to improve the quality of economic indicators. A suggestion for improvement, which came from the Interagency Working Group on Economic Statistics, headed by Dr. Michael Boskin, Chairman of the President's Council of Economic Advisers, was to upgrade the Employment Cost Index (ECI) to provide data which are seasonally adjusted. In January, BLS released its first seasonally adjusted ECI. The seasonal adjustments allow for more timely policy and economic analysis. Initiatives are planned in other program areas, as well, to improve the overall usefulness of BLS economic indicators.

Work was done in the BLS Dallas Regional Office in concert with the Employment Training Agency (ETA) and the State Employment Security Agencies (SESAs) to test the feasibility of SESAs electronically accepting the Internal Revenue Service (IRS) W-2 format for the quarterly submission of wage record data for all establishments with 250 or more employees. The driving force for this project was the concern expressed by employers regarding the reporting burden placed on them to supply wage data to both State and Federal agencies. In particular, firms are required to use a diversity of reporting formats for State Unemployment Income (UI) Tax and related administrative requirements. The lack of standardization has reduced the benefits to employers which could be derived from the internal automation of their reporting system. The demonstration project was highly successful with the majority of the firms ready and willing to accept use of a

standardized format for reporting UI tax, wage record, and related administrative data using existing computer technology. The project is currently under review in ETA and in OMB as a paperwork reduction initiative.

## **OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT (OASAM)**

### **Management and Productivity Improvements**

The Directorate of Personnel Management, (DPM) is formulating a policy "Maintaining a Quality Workforce" that commits DOL Executive Staff to a cohesive plan of action by each agency for attracting and retaining a quality workforce. In addition, an Exit Survey program for DOL employees was designed and implemented. The program will be used to gather data for use in improving the recruitment and retention of DOL employees.

Several draft OPM regulations were reviewed, analyzed, and commented on as part of implementing the recently enacted Federal Employees Pay Comparability Act (FEPCA). Under these implementing regulations, the Department has converted its Administrative Law Judges to a new pay system. In addition, the automated personnel system is being amended to accommodate FEPCA requirements.

Development, testing, and implementation of the Electronic Mail Global Name Service (GNS) were completed to aid Electronic Mail users by providing the electronic mail address of employees in 49 Department of Labor Local Area Networks (LANs). Interconnection of the 49 LANs provides electronic file transfers of information between DOL agencies.

Development and testing of a set of standard DOL administrative forms in electronic format was completed. The creation of the electronic forms will assist in moving more administrative functions into the office automation environment.

The Department initiated an aggressive program to return injured employees to work who are collecting workers' compensation benefits. To date, a number of those individuals have been returned to gainful employment in DOL and over \$3 million in workers' compensation costs have been saved.

The Directorate of Civil Rights, (DCR) is working with DIRM on two automation projects which will greatly enhance its provision of services to clients: case management and applicant tracking systems. The case management tracking systems are being designed to track internal EEO complaints, and complaints and compliance

reviews involving recipients of Federal financial assistance from the Department. The applicant tracking system is a priority project to assist DCR in processing and tracking the myriad of employment applicants from the various career fairs.

DCR has also increased the use of Settlement and Conciliation Agreements to expedite resolution of issues arising during complaint investigations and compliance reviews involving DOL grant recipients. The use of these agreements has proven to be an effective way of achieving expeditious resolution of complaints and compliance reviews and of reducing DCR's external civil rights case backlog.

The Department continues to automate the National Capital Service Center, (NCSC) operations to increase efficiency. Since June 1990, when the NCSC Local Area Network (LAN) became operational and staff indoctrination completed, emphasis has shifted to staff development and training. The ability of staff to communicate throughout the Department has been significantly increased as a result. Implementation of the DOLAR\$ core system and development of several ancillary systems has increased the service potential of the organization.

During the period, the Clerical Support Program (CSP) began its third year of operation. Placements for 54 employees within the Department and 15 currently enrolled in the program have been made. This entry level clerical training program has been expanded to meet the needs of all Departmental agencies.

Work being performed by the Employment Training Administration in the field under the Immigration and Nationality Act was reviewed. As a result, a new grade structure, standard position descriptions, and detailed grade level guidance was furnished to the field on the work of Alien Certification Specialists. Recognition of the demands of this work was especially timely since recent changes in the law will greatly increase workload.

#### **Making DOL a Better Place to Work**

The Directorate of Civil Rights, (DCR) conducted a survey to determine the availability of telecommunication systems in the Department to meet the needs of hearing and speech impaired job applicants. The survey revealed that of the approximately 1000 locations nationwide only 19 had Telephone Devices for Deaf, (TDD). To alleviate this problem, DCR purchased a TDD communication package (one PC, printer and software, and two Ultratec Miniprint II Portable TDDs) and a nationally published 800 number for each region and the national office. This computer based TDD package will allow a PC to receive and transmit messages from hearing and speech impaired individuals.



Radon testing was conducted in 2057 buildings owned by ETA/Job Corps and MSHA. Only 6.4% of the test results indicated radon levels significant enough to require retesting.

The Federal Buckle-Up Program initiated by the National Highway Traffic Safety Administration has been implemented in DOL. Surveys of seat belt usage in the National Office indicated that over 60% of DOL drivers are buckling up.

Health care services were provided to employees through Public Health Service Health Units, whenever possible. Specific services offered included smoking cessation classes, Persian Gulf crises support group, cholesterol screening, information on elder care, coping with holiday blues, and being "Over 50 and Fit". The Employee Assistance Program, (EAP) continued to provide confidential counseling and referral services, upon request.

The significant statistical data and recommendations resulting from the National Office dependent care survey are expected to provide valuable guidance to DOL Management in selecting among various employer-supported dependent care options. In follow-up of the study recommendations, DOL will continue to explore various options through ongoing contacts with OPM, GSA, and other agencies. These options include expanded leave for the care of sick dependents, changes in the Federal day care center fee structure, and implementation of the pre-tax dollars allowance for dependent care.

#### **Improving Internal Controls**

Information Resources Management, (IRM) policy guidance was developed for the Federal Information Processing (FIP) Acquisitions chapter, which includes policies and procedures for development of Agency IRM infrastructure. A Records Management chapter was also developed and includes electronic records provisions. These policy issuances aided agencies in acquiring and managing ADP resources and avoiding waste and abuse.

The Office of Acquisition Integrity (OAI) is now fully functional with regard to management reviews of major Federal Information Processing Acquisitions. OAI is also interfacing with GSA for the Delegations of Procurement Authority. Additionally, staff members are working with the Directorate of Information and Resource Management to update appropriate Department of Labor Manual Series chapters on various policies and procedures, as well as the DOL Acquisition Regulation.

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### **III. Federal Managers' Financial Integrity Act Update**

A December 21, 1990 letter from Acting Secretary DeArment to the President and the Congress identified 14 material weaknesses in internal controls, prescribed corrective actions to address those weaknesses, and provided a general target date for completing corrective actions for each of the weaknesses. The following information provides the current status of those corrective actions.

**1. Job Training Partnership Act (JTPA) - Audit Coverage.** As, planned, in Fiscal Year (FY) 1990, the Employment and Training Administration (ETA) completed compliance reviews of all States to determine if there has been improvement in the compliance with the Single Audit Act based on ETA's efforts in the prior 2 years. The FY 1990 reviews indicated that timely completion of audits and timely resolution of audit findings continue to be problems. Additional State and Service Delivery Area (SDA) reviews will be conducted in FY 1991.

**2. JTPA - SDA Procurement Systems.** The targeted correction date has been changed from March 1991 to October 1991. ETA plans to conduct a third wave of special oversight reviews at additional SDA's.

In 1990, two waves of special oversight reviews were conducted at a sample of SDAs on procurement policies and practices to identify any deficiencies, secure prompt corrective actions, and ensure program integrity. Follow-up on corrective actions for Waves I and II is currently being conducted. In 1991, a third wave of the special reviews will be conducted. This wave of reviews is currently being scheduled. It is anticipated that the reviews will be completed by September 30, and all reports prepared before the end of October 1991.

As planned, in February 1991, ETA published in the Federal Register an Advance Notice of Proposed Rulemaking (ANPR) which is the first step in the rulemaking process. The ANPR announces the Department's intent to establish regulations in several general areas to improve the integrity and overall administration and operation of JTPA programs. These regulations will include certain procurement and contracting issues.

**3. ERISA - Audit Process.** On March 14, 1991, PWBA and the OIG reached agreement on the resolution of the remaining three recommendations made by the OIG in its study on the role of Independent Public Accountants (IPAs) in ERISA enforcement. In a joint memorandum for the Department of Labor's Policy Review

Board, PWBA and the OIG recommended that the OIG's previous recommendations be modified as follows:

- Adopt a legislative proposal which would require plan administrators to directly report certain criminal violations identified in the statutory language, to the Department of Labor within seven days of its discovery.
- Reject a proposal which would have mandated the use of the American Institute of Certified Public Accountants' industry audit guide for employee benefit plan audits, but agreed that the Department of Labor would review the quality of employee benefit plan audits and the effect of the revised AICPA audit guide 12 months after the implementation of the revised guide. PWBA would continue to work with the accounting profession to pursue improvements in the performance of ERISA-required audits through training programs, peer reviews, etc.
- Reject a proposal which would have required the establishment of parties separate from plan management to oversee plan audits on behalf of plan participants. The current system which provides fiduciary oversight of the plan's annual audit would be maintained.

The Department of Labor's Policy Review Board approved these revised recommendations on March 20, 1991. Implementation of these recommendations will require legislative changes to ERISA. The Department will continue to refine PWBA's legislative proposal prior to resubmitting a package to Congress.

**4. Equity in SESA Real Property.** A General Administration Letter (GAL) outlining real property requirements will be published shortly in the Federal Register for public comment. A supporting Field Memorandum will be issued to the regions following final approval of the GAL. A prototype for a real property monitoring and inventory system has been developed and is undergoing testing. It is expected that the system will be installed and implemented by May 1991. Decisions on providing training and conducting oversight on the administration of SESA real property acquisition, use, and disposition have not been finalized.

**5. JTPA - Return on Investment.** The National Commission for Employment Policy (NCEP) is exploring the feasibility of using Unemployment Insurance (UI) wage record data to track post-program earnings of JTPA participants and to make general comparisons between pre-and post-program changes. Phase I of the study has been completed, and the report is available. Phases II and III, which include a number of additional studies and reports, are continuing.



ETA has also contracted with SRI International for a study on the programmatic impact of a 1988 Department of Labor (DOL) policy which allows States to exempt 6 percent (performance incentive grant funds) from the application of performance standards. The DOL policy was undertaken to allow States to provide incentives for serving increased numbers of hard-to-serve individuals. SRI's report on the results of the study is currently being finalized.

A number of other studies are in progress and planned which will provide information on the "investment return" on policy choices and the overall impact of the JTPA program. These include:

a. A national JTPA study, with control groups and a random assignment design. This study will assist ETA in determining whether the program is having an impact which would not occur absent the program--i.e., whether program services are having a net impact on later participant employment and earnings.

b. A study on the effects of Program Year (PY) 1990 performance standards on clients, services, and outcomes. This study is required by the Office of Management and Budget (OMB), and it will be conducted to determine the impact of PY 1990 performance standards and reporting changes on increased service to hard-to-serve participants; provision of quality/intensity of services; and promotion of skill attainments for adults and youth. Since PY 1990 data will not be available until August 1991, at the earliest, ETA anticipates no concrete analysis before January 1992.

**6. Management Controls over Departmental Enforcement Activities.** In October 1990, the Department of Labor (DOL or the Department) completed an evaluation of its enforcement programs. This process culminated in an in-depth report entitled "Report to the Secretary of the Task Force on Enforcement." Many of the Task Force's recommendations were highlighted in DOL's FMFIA Report.

The following milestones have been met:

- A. Agency Enforcement Plans -- All of the enforcement agencies have developed plans which describe how the agency intends to implement the relevant Task Force's recommendations and which set the schedule for doing so.
- B. Agency Enforcement Funds -- All of the enforcement agencies have identified the funds and the FTEs devoted to enforcement.
- C. Criminal Enforcement Coordinators (CECs) -- All agencies with criminal enforcement responsibilities have either designated one or more CECs or are in the

process of doing so. The differences in timing are related to the approach taken. Some agencies met this objective by giving the CEC responsibilities to existing personnel, while others created a new position and are in the process of hiring.

**7. Oversight of State UI Tax Collection.** In 1990, ETA developed the Revenue Quality Control (RQC) design to assess States' collection of accounts receivable. This design, incorporating (1) proposed indicators of success with data to be electronically reported and (2) a survey to identify and disseminate exemplary collection practices, was issued to all interested parties for comment. In 1991, the RQC design will be refined and undergo pilot testing. During 1992, findings from the pilot test will be evaluated, the design will be further modified, and implementation tasks, such as writing regulations, obtaining OMB approval for data collection, and training SESA staff to operate the RQC, will be performed. Mandatory implementation of the RQC design, covering collection of accounts receivable, is scheduled for 1993.

**8. Unemployment Trust Fund (UTF) - Cash Management.** With the enactment of the Cash Management Improvement Act (PL 101-453) on October 23, 1990, ETA will be revising its approach to State Unemployment Trust Fund cash management. The UTF is specifically addressed in the legislation.

The legislation provides for State investment of unemployment fund balances in benefit payment accounts and allows payment of related banking charges from earnings on those investments. The legislation requires the U.S. Department of Treasury to issue regulations and execute individual State agreements to implement drawdown, disbursement, and interest exchange provisions of the Act. Treasury has instituted a Federal Agency Task Force to assist it in that effort. ETA's Unemployment Insurance Service (UIS) staff are members of that Task Force and will assist in the development of regulations pertaining to UTF cash management for publication in the Federal Register. UIS staff will also be involved in the development and negotiation of UTF provisions of State agreements. By law, the regulations and State agreements must be instituted by October 23, 1992. New cash management performance measures and revised reports will be developed in accordance with the Act and regulations.

All 53 States and territories with UTF accounts are on-line and using the State Unemployment Data System (SUDS) to requisition funds daily. SUDS in conjunction with FEDWIRE allows same day delivery of requests for almost every State (time zone differences may delay a limited number of States), thereby lowering balances in benefit payment accounts.

**9. UI - State Trust Fund Accounting.** ETA has consulted with the OIG and reached agreement on corrective actions required to resolve five outstanding recommendations in related 1985 and 1990 OIG audit reports pertaining to the operation of experience rating in the States' UI programs' tax systems. On September 28, 1990, ETA submitted work plans which addressed these recommendations and critical corrective action milestones. On October 10, 1990, OIG resolved the recommendations. ETA's agreements to (1) facilitate SESA efforts to improve UTF accounting systems through guidance letters, technical assistance, and direct funding, where applicable, of related automation grants and (2) review Federal reporting requirements to ensure integration between the UTF accounting systems and the reporting structure, both to be accomplished over the next 2 years, will resolve these audits completely. Closure of the recommendations will be accomplished upon implementation of a revised reporting system that fully considers the interrelationships of the financial reports and the State accounting systems.

Guidance letters have been prepared, and are currently in the clearance process. Technical assistance is being provided to the States, and direct funding of related automation grants, where applicable, has been completed. The reporting workgroup has reviewed the Form 581 (Contribution Operations), and provided additional clarification to the SESAs with respect to what should be included on the form and its content. The workgroup is also reviewing UI reports in relationship to the UI data base (automated reporting system).

OIG has agreed to participate at various UI conferences, review and provide comments on any proposed UI program letters, and manage any direct technical assistance to the States that will be required from OIG's contractors. In November 1990, OIG appeared on panels at the National UI Directors' Meeting and the Region IV Tax Conference, and will appear on panels at the National UI Tax Conference scheduled for April 1991.

The 1985 FMFIA report item, "UI - Experience Rating," which was discussed separately in the previous Secretary's semiannual report, is being merged with this related 1990 item to track corrective actions to ensure the validity of experience rating information.

**10. Mine Plan Approvals - Ventilation.** A nationwide survey has been completed of a cross-section of selected mine ventilation plans. As a result of this review and subsequent in-depth analysis of the findings, an interim report has been prepared to address issues such as mine plan contents, plan revision rationale, evaluation of plans, and managerial responsibilities



and delegations of authority for plan approval. Actions to address these issues are being developed and are expected to be completed in April.

**11. CPI System Back-up Plan.** In 1990 BLS reported one significant weakness in the FMFIA report - the lack of a back-up plan for the Consumer Price Index (CPI) ShareBase System. During the reporting period a contractor was hired to provide on-site support for the CPI production network and to help develop the disaster recovery plan. Also, discussions were held with the company that provided the system concerning possible solutions to the CPI requirement for a back-up system. The company itself is beginning to address the issue of providing back-up coverage for all its customers, but as of yet, no specific offering has been made. Discussions will be continued with the company to identify cost-effective ways of meeting the back-up requirement.

**12. Job Corps - Attendance System.** The issuance of final revised procedures for student pay and accountability was delayed so that the Office of Job Corps (OJC) could review the draft procedures in light of a recent management decision to modernize and integrate two major student based data systems: (1) student management information system at the Job Corps Data Center and (2) pay and allowance system at the U.S. Army Finance and Accounting Center.

OJC has completed its review of the draft procedures for student pay, leave, attendance and accountability to (1) determine the impact, if any, on the development of a new integrated system, and (2) ensure that the procedures are compatible with the development of the new system.

Final revised policies and procedures are currently being issued. Full implementation of these procedures will be in effect July 1, 1991, and the Job Corps center compliance/quality assessment guide is being revised to include these new policies and procedures. Work is progressing on schedule on the development of the new integrated system. ETA anticipates that the system will go into effect in December 1992. The OIG is assisting OJC in the development of a framework for the new system.

**13. Job Corps - Allowance Payment System.** OJC is progressing in its work toward modernizing the student pay and allowance system. More extensive technical effort has been required to design and install system improvements. The student allowance payment system will be consolidated with the student management information system.

The modernization and integration of the two systems will be a multi-year planning, development, and implementation project. ETA anticipates that the new integrated system will go into



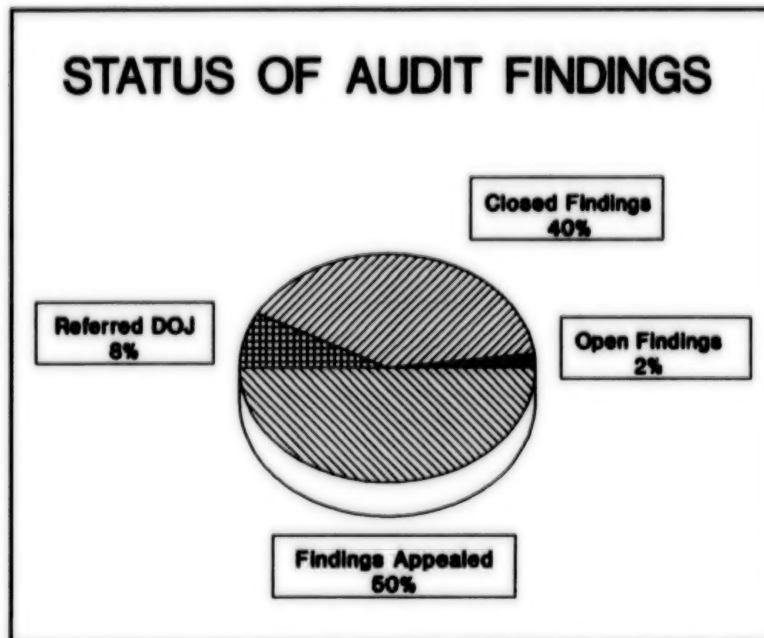
effect in December 1992. OJC will continue to receive technical input and advice from the OIG in the development of a framework for the new system.

**14. JTPA - Standard Contract Elements.** Work is progressing on the development of a "live" and video format training course on JTPA procurement. ETA is modifying this developmental project by expanding the "live" course from a 2-day to a 3-day course session and from 3 to 5 training site presentations nationwide. Approximately 600 State and local JTPA program staff will participate in the training. The "live" course will be completed in April 1991 with presentations in April, May, and August. The schedule for the video format has been modified as follows: (1) script completion -- August 1991 and (2) video production completion -- October/November 1991.

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#### **IV. Management's Audit Resolution and Closure Activity** **(October 1, 1990 through March 31, 1991)**

The Inspector General Act Amendments require explanations for those audit reports with recommendations open for more than one year. The following chart on the status of audit findings shows that 2 percent of the open audits are older than 1 year and require discussion.



As of March 31, 1991, the Department had 27 open audit reports totaling \$19,105,575 and 64 non-monetary reports that require discussion. At the end of the reporting period, there were 433 audit reports totaling \$623,916,191 million requiring final action (Exhibits I and II).

Currently, 299 audit reports have been open for over one year. The total value of open audits of \$199,260,427 covers 2,141 separate recommendations. The current status of these amounts is as follows:

	(in millions of dollars)
Affected amounts in 2,141 recommendations over one year old . . . . .	\$199,260
Less:	
Value of 1097 closed recommendations . . . . .	- 80,147
Value of 545 open recommendations under administrative law or Federal Court appeal . . . . .	- 100,008
Amounts referred or in process of referral to the Department of Justice for disposition . . . . .	<u>- 15,729</u>
Balance of open audits requiring further disposition . . . . .	<u>\$ 3,376</u>

Exhibit IV identifies the current status of the audits requiring further disposition. Nearly all are either awaiting payment schedules or other documentation, are in the process of referral to the Department of Justice for disposition, or in some form of debt collection processing before closure can be officially recorded. The Exhibit also lists the 64 open non-monetary audit reports that require further disposition. In most of these cases, the audits remain open because the response to the open recommendations requires long term solutions that cannot be completed within one year. The reporting requirements of the Inspector General Act require explanations for all audits open beyond one year even though the management and audit communities agree that audit resolution requires corrective action of several years. Exhibit V identifies the status of audit reports with recommendations for funds to be put to better use.



## EXHIBIT I

**Summary Management Figures of Audits**  
**With Disallowed Costs**  
**October 1, 1990 through March 31, 1991**

	<u>Number of</u> <u>Audit Reports</u>	<u>Disallowed</u> <u>Costs</u>
A. Audit reports with management decisions on which final action had not been taken at the beginning of the period.	419	\$558,798,202
B. Audit reports on which management decisions were made during the period.	<u>244</u>	<u>120,774,210</u>
C. Total audit reports pending final action during period. (A plus B)	663	679,572,412
D. Audit reports on which final action was taken during the period.		
1. Recoveries.		
(a) Collections and offsets.		10,387,162
(b) Property.		915,566
(c) Other.		40,309,582
2. Write-offs.	—	<u>4,043,911</u> (1)
3. Total of 1 and 2.	230	55,656,221
E. Audit reports needing final action at the end of the period. (C less D3)	<u>433</u>	<u>\$623,916,191</u> (2)

- (1) This amount includes terminations and compromises reached by the Department of Justice and the Department of Labor, interest waived and previously disallowed costs subsequently allowed by a grant/contract officer upon receipt of sufficient justification.
- (2) This figure represents total disallowed costs as determined by the OIG. This amount includes \$396,002,746 of funds put to better use as shown on Exhibit V. Exhibit II provides detail by agencies of the Department.

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SUMMARY OF DISALLOWED AUDIT COSTS BY AGENCY  
OCTOBER 1, 1990 THROUGH MARCH 31, 1991  
(in thousands of dollars)

AGENCY	AUDIT REPORTS PENDING FINAL ACTION AS OF 10-01-90		INCREASES FROM MANAGEMENT DECISIONS MADE		DECREASES FROM FINAL ACTION TAKEN			AUDIT REPORTS PENDING FINAL ACTION AS OF 03-31-91	
	REPORTS	AMOUNTS DISALLOWED	REPORTS	AMOUNTS DISALLOWED	REPORTS	AMOUNTS WRITTEN-OFF	AMOUNTS RECOVERED	REPORTS	AMOUNTS DISALLOWED
ETA	341	\$554,446	161	\$106,756	163	\$4,041	\$50,761	339	\$606,400 (5)
OASAM	22	858	13	13,496	12	0	827	23	13,526
OSHA	10	173	8	2	7	0	2	11	173
Multi-Agency	31	3,321	27	157	18	0	22	40	3,456
Program Reports(1)									
Other DOL Agencies(2)	14	0	33	363	27	3	0	20	361
Other Government Departments(3)	1	0	2	0	3	0	0	0	0
<b>TOTAL</b>	<b>419</b>	<b>\$558,798</b>	<b>244</b>	<b>\$120,774</b>	<b>230</b>	<b>\$4,044 (4)</b>	<b>\$51,612</b>	<b>433</b>	<b>\$623,916 (5)</b>

\* Detail may not add due to rounding.

(1) Multi-agency program reports relate to Single Audit reports only. The report may be on a statewide audit where DOL has accepted "lead" cognizancy or it may be on a single entity under the direct responsibility of DOL.

(2) Other DOL agencies relate to the remainder of the Department's agencies that do not have significant dollar amounts under audit review.

(3) Other Government Departments pertains primarily to an audit conducted by the DOL, OIG on the Unemployment Trust Fund for collection, accounting, and fund management services provided to the U.S. Department of Treasury.

(4) Of this amount \$2552 was written-off as the result of a Federal court decisions, or through an administrative appeal process.

(5) This amount includes \$396,002,746 of funds put to better use shown on Exhibit V.

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EXHIBIT III  
Table 1

STATUS OF RECOMMENDATIONS IN OPEN AUDITS OVER ONE YEAR  
(in thousands of dollars)\*

AGENCY	TOTAL RECOMMENDATIONS AS OF 03-31-91		CLOSED RECOMMENDATIONS (1)		OPEN RECOMMENDATIONS		OPEN RECOMMENDATIONS UNDER APPEAL				OPEN RECOMMENDATIONS NOT UNDER APPEAL (2)		
	NUMBER	AMOUNT	NUMBER	AMOUNT	NUMBER	AMOUNT	NUMBER	AMOUNT	JUDICIAL	ADMINISTRATIVE	LEGISLATIVE	NUMBER	AMOUNT
									APPEAL	APPEALS	REMEDY		
ETA	1,727	\$198,811	864	\$80,136	863	\$118,675	536	\$99,897	\$6,525	\$93,372	0	327	\$18,778
OSHA	100	171	59	0	41	172	0	0	0	0	0	41	171
OASAM	110	163	72	0	38	163	2	7	0	7	0	35	156
BLS	23	0	16	0	7	0	0	0	0	0	0	7	0
ESA	33	0	21	0	12	0	0	0	0	0	0	12	0
MULTI-AGY	148	115	65	11	83	104	7	104	0	104	0	76	0
TOTAL	2,141	\$199,260	1,097	\$80,147	1,044	\$119,114	545	\$100,008	\$6,525	\$93,483	0	498	\$19,106

(1) Recommendations totaling \$80,147 that have already been resolved and closed are contained in audit reports that have additional open recommendations which, under the Inspector General Act Amendments, determines that the audit report must remain open.

(2) These amounts are in agreement with the Department's Office of the Inspector General audit tracking system. Some of these cases have been referred to the Department of Justice for litigation, collection, or termination. The dollars affected are as follows:

Description	Amount	Reference
Dollar Balance/ Open Recommendations	\$19,106	
less:		
Audits Referred to DOJ	14,799	Exhibit III, Table 2
Audits to be Referred to DOJ	930	Exhibit III, Table 3
Balances Requiring Explanation	\$3,376	Exhibit IV

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Cases Referred to the Department of Justice

Sponsor Name	AUDIT NUMBER	DOJ REFERRAL DATE	REFERRAL AMOUNT
City of Brockton	02-83-450-03-345	09/25/87	\$ 298,121
Olympus Research	11-83-468-03-350	03/27/87	280,846
Indian Centers Inc.	09-85-074-03-355	01/19/88	2,255,819
Indian Centers Inc.	11-83-014-03-355	01/19/88	1,300,621
North American Ind Club	17-87-045-03-355	12/01/88	125,032
St. Clair County	05-83-096-03-345	02/06/90	31,361
Oakland County	05-83-209-03-345	02/12/90	78,274
Mopportunities	11-76-553-03-365	11/25/85	3,316
Mopportunities	11-80-126-03-365	11/25/85	560,679
Sacramento Ind Center	11-81-339-03-355	09/06/85	27,171
Sacramento Concilio	11-77-386-03-365	02/26/88	1,625
Mopportunities	11-82-101-03-365	11/25/85	329,624
Migrant Action Program	11-79-205-03-365	04/10/87	520,667
American Ind Higher Ed	11-76-677-03-365	3/31/86	10,737
Greater Cal Ed Project	11-77-378-03-365	09/04/85	900,468
Sacramento Concilio	11-77-030-03-365	02/26/88	2,013
Central Coast Cty Dvlp	11-81-007-03-365	04/28/88	362,764
Alameda County	09-80-041-03-345	01/13/89	153,940
Southern Voc College	11-81-033-03-350	06/13/89	71,507
Evangeline Comm Act Inc.	11-82-033-03-350	07/29/88	17,749
East St. Louis	05-82-028-03-345	01/23/84	4,500,175
Amer Ind Nurses	11-79-078-03-355	02/10/88	30,116
Pitt Bldg Con Indus	11-73-115-03-350	05/21/87	145,744
Alameda County	09-80-141-03-345	08/15/86	85,593
United SE Tribes	11-78-317-03-355	10/12/88	325,747
American Ind Nurses	11-79-077-03-355	02/10/88	10,927
Expand Associates	11-84-003-03-350	11/19/87	3,564
Monmouth County	02-87-067-03-345	08/15/90	83,109*
Alameda County	09-82-041-03-456	03/21/90	27,181
Coalition United	11-83-173-03-350	08/10/90	17,451
Sacramento Ind Center	11-78-360-03-355	09/06/85	9,907
King County	09-84-529-03-345	09/24/90	7,467
King County	09-84-529-03-345	09/24/90	466,670
King County	10-83-059-03-350	09/24/90	9,783
St. Clair County	05-84-134-03-345	09/26/90	267,320
Clark Phipps	11-84-247-03-350	01/23/91	500,522
Farmworkers Corp. of N.J.	11-79-167-03-365	12/17/87	728,815**
Milton Reporting, Inc.	11-84-105-07-741	03/20/85	123,853
J.D. Catten and Assoc.	11-84-358-07-741	09/30/85	32,468
Total			<u>\$14,798,746</u>

\* Awaiting verification of payment and credit to the Employment and Training Administration

\*\* Debt collection terminated on January 14, 1991 for \$727,276. Awaiting verification of payment of the balance and credit to the Employment and Training Administration

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EXHIBIT III  
Table 3

Cases to be Referred to the Department of Justice

<u>SPONSOR NAME</u>	<u>AUDIT NUMBER</u>	<u>REFERRAL AMOUNT</u>
Trust Territory	11-86-046-03-340	\$ 16,845
Latin Amer Task Force	11-81-194-03-365	1,470
Latin Amer Task Force	11-79-152-03-365	12,960
Latin Amer Task Force	11-78-328-03-365	4,390
St. Clair County	05-85-032-03-345	62,977
Consortium Venture	11-81-301-03-350	71,877
Recr. Training Program	11-82-249-03-350	356,162
Northwest Rural Opportunities, Inc.	09-85-014-03-365	254,079
Northwest Rural Opportunities, Inc.	11-82-109-03-365	<u>149,045</u>
Total		<u>\$ 929,805</u>

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OPEN MONETARY AUDITS OVER ONE YEAR REQUIRING  
FURTHER DISPOSITION  
OCTOBER 1, 1990 THROUGH MARCH 31, 1991

EXHIBIT IV

REPORT NAME	DOL AGENCY	REPORT ISSUE DATE	AUDIT NUMBER	DEBT AMOUNT	COMMENTS
1. Crow Creek Sioux Tribe	ETA	09/28/81	11-77-037-03-032	\$ 11,667	To be referred to GAO as "doubtful claim" to determine what action should be taken. The Grantee designation as a JTPA grantee has been withdrawn.
2. Crow Creek Sioux Tribe	"	09/01/81	11-79-079-03-355	16,361	Same as above.
3. Crow Creek Sioux Tribe	"	08/30/82	11-82-052-03-355	80,000	Same as above.
4. Crow Creek Sioux Tribe	"	09/03/81	11-77-046-03-355	1,078	Same as above.
5. Crow Creek Sioux Tribe	"	04/18/84	11-83-442-03-355	13,000	Same as above.
6. Omaha Tribe	"	03/25/82	11-81-054-03-355	71,985	To be referred to GAO as "doubtful claim" to determine what action should be taken. The Grantee designation as a JTPA grantee has been withdrawn.
7. Omaha Tribe	"	01/15/85	11-83-043-03-355	55,527	Same as above.
8. Yankton Sioux Tribe	"	03/31/82	11-81-239-03-355	555,440	To be referred to GAO as "doubtful claim" to determine what action should be taken. The Grantee designation as a JTPA grantee has been withdrawn.
9. Yankton Sioux Tribe	"	07/27/81	11-79-291-03-355	7,508	Same as above.
10. Santee Sioux of Nebraska	"	08/04/80	11-78-294-03-355	43,526	The Department is seeking a comprehensive settlement in conjunction with a current claim.
11. Santee Sioux of Nebraska	"	07/25/80	11-77-329-03-355	12,530	Same as above.
12. Texas Association of Dev. Colleges	"	03/07/83	11-82-134-03-350	11,982	To be referred to the ETA grant officer for final disposition.

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OPEN MONETARY AUDITS OVER ONE YEAR REQUIRING  
FURTHER DISPOSITION  
OCTOBER 1, 1990 THROUGH MARCH 31, 1991

EXHIBIT IV

REPORT NAME	DOL AGENCY	REPORT ISSUE DATE	AUDIT NUMBER	DEBT AMOUNT	COMMENTS
13. Wisconsin Indian Consortium	ETA	08/10/89	05-89-055-03-355	883	To be referred to the ETA grant officer for final disposition.
14. Great Lakes Inter-Tribal Council	"	11/07/85	11-84-418-03-355	165,300	Collection in process. Comprehensive settlement expected.
15. Great Lakes Inter-Tribal Council	"	11/07/85	11-84-419-03-355	140,878	Same as above.
16. Great Lakes Inter-Tribal Council	"	11/07/85	11-84-421-03-355	26,319	Same as above.
17. Delmarva Ecumenical Agency	"	03/10/81	11-79-128-03-350	11,024	To be referred to the ETA grant officer for final disposition.
18. Green Thumb	"	02/15/85	11-83-023-03-360	9,199	Under non ALJ-type administrative review. (When final determination issued, no formal appeal rights were available for Older Worker grants.)
19. Green Thumb	"	09/25/81	11-78-244-03-360	255,780	Same as above.
20. YMCA Metro Denver	"	09/18/81	11-79-154-03-350	1,507	Final resolution discussions are in process between grantee and ETA grant officer.
21. Center for Employment Training	"	05/16/86	09-85-058-03-365	19,472	Post resolution negotiations completed between grantee and grant officer. First demand letter to be sent.
22. Rural NY Farmworkers	"	09/15/81	11-80-172-03-365	12,376	To be referred to the ETA grant officer for final disposition.
23. Motivation Education and Training	"	06/30/86	09-85-029-03-365	70,368	Settlement of this debt is in process.
24. Ind. Unemployment Trust Funds Equity Int. In.	"	05/03/89	04-89-139-03-325	1,480,000	In negotiation with Indiana State Office Building Commission. Correction expected by November 30, 1991.

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OPEN MONETARY AUDITS OVER ONE YEAR REQUIRING  
FURTHER DISPOSITION  
OCTOBER 1, 1990 THROUGH MARCH 31, 1991

EXHIBIT IV

REPORT NAME	DOL AGENCY	REPORT ISSUE DATE	AUDIT NUMBER	DEBT AMOUNT	COMMENTS
25. Audit of Data Transforma- tion	OASAM	09/29/89	09-89-006-03-310	129,099	The contractor has been informed of the Procurement Offices final decision and collection action is anticipated before the close of the next reporting period.
26. New Hampshire Department of Labor	OSHA	03/22/89	02-89-266-10-101	80,742	A supplemental budget bill has passed the New Hampshire Senate and House, and is awaiting the governor's signature. The funds needed to resolve the audit should be available within a few weeks.
27. Pacific Northwest Labor College	"	05/13/85	09-84-532-10-101	90,760	The audit is being prepared for referral to the Department of Justice for termination.
Total				<u>\$3,374,311</u>	

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OCTOBER 1, 1990 THROUGH MARCH 31, 1991

EXHIBIT IV

REPORT NAME	REPORT ISSUE DATE	REPORT NUMBER	OPEN RECOMMENDATION	COMMENTS
<u>ETA</u>				
1. Job Training Partnership Act (JTPA) Participant Training and Employment - Report I	01/25/88	06-86-801-03-340	1	ETA is continuing its cooperative effort with the National Commission for Employment Policy and will explore the feasibility of using Unemployment Insurance record data to track post-program earnings of JTPA participants. A final report is expected in March 1992.
2. JTPA Service Provider Contracts - Report II	09/28/88	06-88-802-03-340	1	Progress continues on the development of a "live" and video format training course on JTPA procurement for use by the States. The "live" course will be completed in April 1991 with presentations in April, May, and August. The estimated completion dates for the video are: (1) script completion -- August 1991 and (2) video production completion -- October/November 1991.
75 3. Management Advisory Comments for ETA, September 30, 1986	09/30/88	12-88-010-03-001	2	Of the 14 recommendations relating to this audit, 12 have been resolved and closed, and two (2) remain open. Progress continues on the two remaining outstanding recommendations to bring them to closure. One of the open recommendations pertains to the ETA Regional Automation System (RAS). ETA is currently in the process of replacing RAS, and closure of this recommendation is predicated on the implementation of the new system. Estimated implementation date is September 1993.
4. ETA Financial Statements and Independent Auditors' Reports, September 30, 1987, and 1986	03/31/89	12-88-013-03-001	6	<p>The six (6) recommendations pertaining to this audit were resolved in FY 1989. Progress continues on the outstanding aspects of this audit to bring them to closure. In response to the recommendation concerning "Allowance for Uncollectible Unemployment Trust Fund Receivables," ETA met with OIG and agreed upon a major revision of the ETA 227 report which includes aging data elements for benefit overpayments and an allowance for doubtful accounts. The proposed ETA 227 revision is being readied for resubmittal to OMB for approval.</p> <p>In response to the recommendations relating to RAS and the Departmental Integrated Accounting System, ETA has (1) fully implemented and documented revised accrual procedures which provides a subsidiary record by grant and contract, (2) contracted with a CPA firm to strengthen procedures for accounting control of RAS input and to develop a monitoring instrument, and (3) reconciled the DOLAR\$ general ledger advance account with the subsidiary information in RAS. ETA is currently reviewing those items which could not be reconciled to determine the appropriate disposition, and evaluating the results of the CPA firm to determine the best methods for implementation of the accounting controls and monitoring.</p>



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EXHIBIT IV

REPORT NAME	REPORT ISSUE DATE	REPORT NUMBER	OPEN RECOMMENDATION	COMMENTS
5. Management Advisory Comments for ETA, September 30, 1987	03/31/89	12-88-017-03-001	9	Of the 16 recommendations pertaining to this audit, seven (7) have been resolved and closed, and nine (9) have been resolved but not closed. Progress continues on the outstanding aspects of this audit to bring them to closure. One of the open recommendations requires that the design of the RAS replacement system interface with DOLARS; therefore, closure is predicated on demonstrating this interface when the RAS replacement is tested and implemented. Estimated implementation date is September 1993.
6. Job Corps Financial Statements and Auditors' Report, September 30, 1987	03/31	12-87-023-03-370	4	All findings were resolved in FY 1989. On the three (3) recommendations pertaining to RAS, ETA completed all actions necessary to implement the revised program accounting systems, and modified RAS to accommodate Job Corps financial data from the Departments of Agriculture and Interior. The new DOLARS accounting system requires that all financial data be provided at the program level; the RAS replacement system will integrate fully with DOLARS. It is estimated that the RAS replacement system will be implemented in September 1993.  On Recommendation 4, progress continues to modernize and integrate two major Job Corps student based data systems-- (1) pay and allowance system at the U. S. Army Finance Center and (2) student management information system at the Job Corps Data Center. It is anticipated that this new system will go into effect in December 1992.
7. ETA Financial Statements and Independent Auditors' Reports, September 30, 1988, and 1987	09/27/89	12-89-001-03-001	5	All recommendations have been resolved. Progress continues on the outstanding aspects of this audit to bring them to closure. ETA is currently in the process of replacing RAS, and closure of this audit is predicated on the implementation of the new system. Estimated implementation date is September 1993.
8. Classroom Training Crossmatch	09/29/89	02-89-260-03-340	2	All recommendations have been resolved. A Training and Employment Guidance Letter (TEGL) has been prepared, and is currently in the clearance process. The issuance of the final TEGL should bring the outstanding aspects of this audit to closure.
9. UI Experience Rating Follow-up, State of Delaware	10/16/89	03-89-068-03-315	11	All issues have been resolved. Progress continues on the outstanding aspects of this audit to bring them to closure.
10. UI Experience Rating Follow-up, State of West Virginia	11/03/89	03-89-066-03-315	8	All issues have been resolved. Closure of this audit is predicated on the implementation of corrective actions.
11. New Jersey Trust and Agency Funds	03/31/87	02-86-052-03-315	2	Corrective action expected by November 30, 1991.

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REPORT NAME	REPORT ISSUE DATE	REPORT NUMBER	OPEN RECOMMENDATION	COMMENTS
12. Pennsylvania Office of Employment Security	07/18/88	05-88-010-03-315	1	Corrective action expected by January 31, 1992.
13. Commonwealth of Mass Single Audit	03/14/89	02-88-191-03-325	5	Documentation from Grantee being reviewed by Regional Office. Corrective action expected by November 30, 1991.
14. State of Delaware FY 87	11/22/89	03-89-012-03-325	2	Documentation under review by Regional Office. Corrective action expected by October 31, 1991.
15. State of Tennessee SAA	06/09/89	04-88-126-03-325	1	Corrective action being reviewed by Regional Office. Corrective action expected by October 31, 1991.
16. South Carolina ESC (SESA)	10/30/89	04-89-128-03-325	1	Corrective action expected by November 30, 1991.
17. State of Missouri	08/03/89	05-89-021-03-325	6	Corrective action expected by June 28, 1991.
18. State of New York	10/17/88	02-88-113-03-340	1	Corrective action expected by November 30, 1991.
19. WV, Governor's Office of Economic and Comm. Dev.	12/05/89	03-89-011-03-340	14	Awaiting WV Office of Economic Dev. reorganization. Corrective action expected by January 31, 1992.
20. Michigan DOL-Bureau of E & T	10/21/88	05-86-080-03-340	2	Corrective action expected by September 30, 1991.
21. Texas Department of Community Affairs	10/20/89	06-89-102-03-340	5	Corrective action expected by November 30, 1991.
22. Texas Department of Community Affairs	05/26/89	06-89-107-03-340	1	Corrective action expected November 30, 1991.
23. North American Indian Cultural Center	01/12/90	05-89-043-03-355	7	Corrective action expected November 30, 1991.
24. South Dakota Oglala Sioux Tribe	12/01/88	06-88-301-03-355	1	Corrective action expected by January 31, 1992.
25. Confederated Salish and Kootenai Tribes	06/29/89	06-89-262-03-355	3	Corrective action expected by November 30, 1992.
26. Confederated Salish and Kootenai Tribes	01/26/90	06-89-291-03-355	1	Corrective action expected by January 31, 1992.
27. Guam, Government of	11/10/87	09-87-528-03-360	1	Corrective action expected by November 30, 1991.
28. Centro Campesino The Farm Workers	10/26/89	04-89-138-03-365	1	Corrective action expected by November 30, 1991.
29. ORO Development Corporation	02/13/90	06-89-135-03-365	3	Corrective action expected by November 30, 1991.
30. Gateway Job Corps Center	08/10/89	12-88-043-03-370	1	Report issued to Interior Department for resolution closure.
31. Special Abuse Survey, Sierra Nevada Job Corps Center	03/21/90	18-89-023-03-370	1	Corrective action expected by November 30, 1991.

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REPORT NAME	REPORT ISSUE DATE	REPORT NUMBER	OPEN RECOMMENDATION	COMMENTS
32. Hudson Institute	04/11/89	05-88-019-03-380	3	Corrective action expected by September 30, 1991.
33. Commonwealth of Pennsylvania FY 87	12/21/89	03-89-027-50-598	8	Corrective action expected by January 31, 1992.
34. D.C. Department of Employment Services	03/30/90	03-89-034-50-598	25	Corrective action expected by November 30, 1991.
35. Commonwealth of Pennsylvania FY 86	12/07/89	03-89-017-50-598	8	Corrective action expected by November 30, 1991.
36. Indiana Employment Security Division	03/29/90	05-89-057-50-598	5	Corrective action expected by January 31, 1992.
37. Arizona Department of Economic Security	01/12/90	09-89-597-50-598	8	Corrective action expected by September 30, 1991.
38. State of Maine Single Audit	02/13/90	02-89-203-50-598	2	Corrective action expected by September 30, 1991.
39. State of Rhode Island Single Audit	01/26/90	02-89-208-50-598	2	Corrective action expected by June 30, 1991.
40. Illinois Department of Commerce and Community Affairs	11/27/89	05-89-072-50-598	3	Corrective action expected by September 30, 1991.
41. State of Texas	01/15/89	06-89-127-50-598	6	Corrective action expected by January 31, 1992.
42. State of Colorado	02/20/90	06-89-141-50-598	2	Corrective action expected by September 30, 1991.
43. Cherokee Nation of Oklahoma	03/23/90	06-90-252-50-598	1	Corrective action expected by November 30, 1991.
<b>ESA</b>				
44. Employment Standards Administration - FECA	09/29/89	06-89-001-04-431	1	As stated on ESA's 12/1/89 response OMCP continues to maintain the position that retroactive interest payments on the four cases in question should not be accessed.
45. LSHW Internal Control Management Letter FY 1989	03/30/90	03-90-014-04-432	5	Progress continues on the open recommendations. The issuance of the revised rehabilitation manual in June will close the remaining recommendations.
46. D.C. Workmen's Compensation Act Special Fund Financial Statements Sept. 30, 1988	03/31/89	03-89-036-04-432	1	Corrective action completed January 28, 1991.
47. Longshore Harbor Workers' Compensation Special Fund Financial Statements Report	03/31/89	03-89-037-04-432	2	Appropriate steps are being developed to address the issues in the open recommendations.
48. Private vs. Federal Workers Compensation Programs	08/01/88	02-86-037-04-435	3	ESA has submitted another status report describing progress on each of seven actions being monitored to assure implementation of the three outstanding recommendations.

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REPORT NAME	REPORT ISSUE DATE	REPORT NUMBER	OPEN RECOMMENDATION	COMMENTS
<b><u>OASAM</u></b>				
49. OASAM Procurement (CARE) - TFRA & CTA	03/31/88	05-87-028-07-001	1	Closure delayed until the new DOLARS Accounts Payable and Procurement module come on-line.
50. FY 86 DOL Consolidated Statements Audit	09/30/88	12-87-022-07-001	5	The OIG has verified that SGL has been implemented. Two other recommendations will be closed when the OIG audits the final FY 1990 financial statements. These items referred to ETA property and are closed.
51. FY 87 DOL Consolidated Financial statement	03/31/89	12-88-009-07-001	10	Some documentation for 3 recommendations has been presented to the OIG. However, FY 1991 audit will validate that the policies and procedures have been implemented. Some enhancement of RAS processes has been made but full implementation of these recommendations awaits completion of work on the RAS replacement system (GCHIS).
52. Department Information Resources Acquisition Process Can be Improved	03-30-90	19-90-004-07-001	3	Two of five recommendations have been closed. Action to close the remaining three recommendations is underway.
53. Comptroller's Office Finance & Management Information System Review - TFRA	01/21/88	12-87-003-07-711	6	The majority of the open items are nearing completion. Documentation for closure is unavailable for older system components. Policies and procedures manuals for subsystems already in operation or nearing completion will be delivered in the spring of FY 1991. Other policies and procedures manuals for undelivered subsystems will follow as those systems come on-line late in FY 1991.
54. Survey of the Automated Purchasing and Payment System	09/29/88	19-87-049-07-720	2	Documentation to close this audit has been provided to OIG. Closure awaits their review.
55. Pilot/Prototype Automation Projects Need Definition & Monitoring	03/39/90	19-90-006-07-720	1	Documentation requested by OIG that would close this audit is in final clearance within the Department. It is expected that this audit should be closed shortly.
56. Review of ADP Commercial Services	09/21/87	11-86-064-07-741	1	Although this audit was previously reported closed prematurely, closure now awaits OIG review of documentation which has been provided to them.
<b><u>OSHA</u></b>				
57. OSHA Final Report - Financial Statements FYs 1988 and 1989	09/25/89	05-89-067-10-001	5	Discussions with the OIG have established that three recommendations remain open. OSHA has submitted the necessary documentation to close two of these items -- implementation of DOLARS and financial reporting by grantees. The third item, concerning the grace period for penalty assessments, is still subject to negotiation.

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EXHIBIT IV

REPORT NAME	REPORT ISSUE DATE	REPORT NUMBER	OPEN RECOMMENDATION	COMMENTS
58. OSHA Review	09/11/87	02-86-028-10-105	2	OSHA's audit directive (PAE 2.18) requires that each Area Office be audited on-site at least once every two years. "Targeting procedures" is one of the areas of vulnerability covered in each audit. In order to close this recommendation, OSHA will provide to the OIG sample copies of these Area Office audits.
59. OSHA Not Targeting Employers With History of Workplace Fatalities	03/10/87	02-87-012-10-105	4	OSHA is currently operating four pilot projects designed to test the feasibility of a fatality targeting system in the construction industry. These projects are scheduled to be evaluated at the end of FY 1991.
60. OSHA - 11(c) Employee Discrimination Complaint Program	02/21/89	05-88-083-10-105	4	The pilot programs in Regions I, V and IX have been completed and the results are being evaluated. The decision on the organizational structure of the Regional Section 11(c) staff will be made as part of the overall field organization issue now being considered.
co 61. OSHA Monitoring of State Programs (7)	01/30/89	05-89-029-10-105	8	A Steering Committee of Federal representatives has developed the framework for the monitoring revision project. Five task groups of Federal and state representatives were named to accomplish the various parts of the revision. Three of the task groups have completed their products. It is anticipated that the revised Part II of the State Plan Policies and Procedures Manual will be implemented in 1992.
62. OSHA's Activities at the Salt Lake City Analytical Laboratory	09/08/89	05-89-035-10-107	3	A task force of National Office and field representatives has clarified the role of the OSHA Computerized Information System (OCIS) and identified the major needs of the agency. The task force produced two instructions (ADM 1.16 and 1.17) which institutionalized OCIS into the agency and delineated responsibilities within the National Office for keeping the system current. These instructions will be transmitted to OIG.
<b>BLS</b>				
63. Survey of the BLS LAN System	09/29/89	19-89-004-11-001	7	Progress continues on implementation of the OIG's audit of the BLS LAN. Currently, it is the only audit which has been open for over one year. Sixteen of the twenty-three recommendations have been closed. The other seven will be closed pending completion of a risk analysis which is in progress.

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**Summary of Audit Reports With Recommendations to  
Put Funds To Better Use  
October 1, 1990 through March 31, 1991**

	<u>Number of Audit Reports</u>	<u>Funds To Be Put To Better Use</u>
A. Audit reports with management decisions on which final action had not been taken at the beginning of the period.	6	\$335,980,581
B. Audit reports on which management decisions were made during the period.	1	<u>\$9,314,000</u>
C. Total audit reports pending final action during period. (A and B)	7	435,294,581
D. Audit reports on which final action was taken during the period.		
1. Value of recommendations implemented (completed).	1	39,291,835
2. Value of recommendations that management concluded should not or could not be implemented or completed.	<u>-0-</u>	<u>-0-</u>
3. Total of 1 and 2.	<u>1</u>	<u>39,291,835</u>
E. Audit reports needing final action at the end of the period. (C less D3)	<u>6</u>	<u>\$396,002,746(1)</u>

(1) The above audit reports pertain to the Employment and Training Administration.

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**03/13/92**